

GUIDELINES FOR
LAW ENFORCEMENT'S
DESIGN OF

HATE CRIME

POLICY AND TRAINING **2000**



CALIFORNIA COMMISSION
ON PEACE OFFICER
STANDARDS AND TRAINING

Guidelines for Law Enforcement's Design of

Hate Crime Policy and Training 2000

California Commission
on Peace Officer
Standards and
Training

The mission of the California Commission on Peace Officer Standards and Training is to continually enhance the professionalism of California law enforcement in serving its communities.



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Foreword

Guidelines for Law Enforcement's Design of Hate Crime Policy and Training was developed pursuant to legislative mandate as codified in Penal Code Section 13519.6. The guidelines will assist members of local law enforcement agencies by enhancing their training concerning hate crimes. Additionally, the guidelines provide strategies for agencies to develop management programs that comply with California Department of Justice policy, the reporting requirements of California Penal Code Section 13023, and the public information requirements of California Penal Code Section 13873.

With California's increasingly diverse population, both religious and cultural in nature, law enforcement officers need to recognize the potential for hate crime violations. The effective enforcement of hate crime law requires a unique balance of investigative skills and sensitivity toward the victim(s). An agency's proactive policies and overall response, apart from the initial officer's response, are crucial to the credibility of law enforcement agencies within their communities. Finally, new training curriculum emphasizes the need for a two-tiered review of protocols as part of the hate crime reports.

In addition, federal reporting requirements have been implemented in California, as reflected in the California Department of Justice *Information Bulletin*, No. 94-25-OMET, dated September 30, 1994. This bulletin requires "... that each agency submit reports of hate crimes" on an annual basis.

The guidelines and accompanying resource information provide a starting point for agency personnel to develop appropriate procedures and training for their communities. Any questions regarding these guidelines should be directed to Dave Spisak in the Center for Human Relations, Training Program Services Bureau, at (916) 227-3902.



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Introduction

These guidelines are designed to be practical working materials for use in the development of agency policy, training, and program development. As such, considerable material is offered in the Appendices. These materials should not be considered definitive. Instead, they should be used as pointers and suggestions for further research and inquiry.

Appendix A, for example, defines some of the most frequent hate crime terms but is not intended to be a complete listing. Appendix B is an updated 1999 version of current laws provided by the Los Angeles District Attorney's Office and the Office of the Attorney General. Appendix C is a partial state-wide listing of hate crime resources. Appendix D is a template outline to assist agencies in designing local policy and protocols. Appendix E provides a sample agency policy and several sample brochures from both law enforcement agencies and public entities. Appendix F includes a reprint of California Department of Justice Information Bulletins No. 94-25-OMET, and No. 98-26-BCIA, regarding Hate Crime Reporting. Also included is Required Data Elements for Submission of Hate Crime Reports to the Department of Justice. Appendix G covers historical legislation.

It is important to consider this material in the larger framework of human relations. POST has encouraged members of California law enforcement to develop value-driven, top-down policies that reach out to the various segments of their communities to assist them in human relations training. Hate crime lies very much within that framework. Hate crime training for law enforcement needs to draw on the rich experience of the community to make the training "come alive" for officers. Meaningful partnerships, developed with those individuals and groups in the community who are also interested in providing safer neighborhoods for our citizens, will yield dynamic training results and will foster greater community confidence in local law enforcement.

Hate Crime Policy and Training Guidelines

Hate Crime Policy and Training Guidelines

Introduction

These guidelines identify the primary elements that law enforcement executives should incorporate into their agencies' hate crime policy and operational programs. The development of these hate crimes guidelines are based on the following core principles:

- An agency's hate crime policy and programs should minimally include the following: **1) Training, 2) Prevention, 3) Response, 4) Contingency, and 5) Reporting**. These elements should be community and multi-agency based.
- These guidelines are designed for **department-wide application** and are intended to reflect the **value-driven, "top-down"** processes so law enforcement agencies can respond successfully to hate crime.
- These guidelines are intended to assist local agency executives and their training coordinators with the development and delivery of related training.
- **Accurate crime reporting systems** will be best implemented based on the application of these guidelines.
- These guidelines are intended to be consistent with the principles that shape the POST Human Relations Training Program for the Basic Academy and ongoing in-service training.

Guideline 1

The law enforcement executive should be responsible for providing the leadership, values, and education that form the foundation for the agency's hate crime policy. Employees will respond appropriately to hate crimes and incidents when the executive effectively applies these foundational values to the organization.

Guideline 2

The law enforcement executive should be responsible for ensuring that the agency possesses contemporary expertise to identify and investigate hate crimes, as well as ensuring compliance with state and federal reporting and public information requirements.

Guideline 3 Develop a hate crime policy for the agency.

- The hate crime policy should include training, prevention, response, contingency and reporting elements.
- The law enforcement executive should be responsible for the initial development of the policy and be **directly active** in its implementation.
- The policy should include a **two-tier review** procedure for all hate crimes and incidents as recommended by the California Department of Justice and the Federal Bureau of Investigation.
- (See Appendix D for sample agency policy.)

Guideline 4 The law enforcement executive should advocate that similar hate crimes policies be developed and implemented by other local government entities. The policies should be anti-discriminatory and **conflict-resolution oriented**. (Examples: Crime reporting reward systems, press policies, etc.)

Guideline 5 Develop and implement cooperative hate crime plans with other local and regional law enforcement agencies.

- Coordinate cooperative efforts among area law enforcement agencies to prevent hate crimes, share information and provide training is **vital and reflects professionalism**.
- Interacting with the appropriate law enforcement intelligence networks will enhance the agency's ability to **anticipate potential crime targets**. This interaction should include cooperative investigations, arrests, and prosecutions.

Guideline 6 Develop and implement cooperative hate crime plans with the community.

- Consistent cooperation with the community and concerned groups before major hate crimes occur will provide **powerful leverage** within the community to prevent hate crime, increase trust in the department, and assist in investigation when hate crimes do occur. Other benefits include increased information sources and **collaborative programs for investigation, arrest and prosecution**.
- Community organizations should also be informed when a community group has been the target of a hate crime.

- Law enforcement agencies should develop cooperative relationships with the community and concerned groups to enlist their help in getting witnesses and victims to cooperate as well as to **gain assistance** in the prevention, investigation, arrest and prosecution of hate crimes.

NOTE: Community groups typically include, but are not limited to: human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, and religious institutions.

- Agencies are encouraged to **use their annual hate crime report** to the Department of Justice as a source for public release information on local hate crime incidents. (See Appendix F, Reprint of California Justice Information Bulletin Number 94-25-OMET.)

Guideline 7 Develop and implement cooperative hate crime plans with K-12 schools and post-secondary institutions.

- Governing bodies of local educational institutions should be encouraged to **adopt district-wide policies and protocols** for reporting all hate crimes and incidents to the appropriate law enforcement agency.
- **Determine if local school administrators are aware** of and provide hate crime training to law enforcement and security personnel pursuant to Penal Code 832.3 (1/99 law change).

Guideline 8 Conduct an annual assessment of your agency's hate crime policy and its ongoing implementation. The assessment should include:

- An internal audit of patrol and investigative responsibilities, e.g., training, reporting, follow-up and case filings.
- A review for continuity with *Guidelines for Law Enforcement's Design of Hate Crime Policy and Training 1999*.
- A review and analysis of the agency's annual report on hate crimes and incidents.
- A review and updating of the department's information pamphlet to ensure compliance with Penal Code 13873.

Guideline 9 Develop and implement a hate crime training/orientation program for all agency personnel.

The training should include the following:

- Definition of hate crime and hate incident
- Definition and understanding of hate crime indicators
- Identification of victims and victimized groups
- Recognition of unique psychological impact of hate crime and specialized response needed by law enforcement
- Understanding types of victim trauma/injury
- Means of prevention
- Improved data collection/documentation/proper incident reporting
- Hate crime statistics
- Collecting and preserving evidence
- Strategies for interviewing victims, witnesses, and suspects
- Understanding of suspect typology
- Appropriate interaction with local community groups/improved community relations
- The role of dispatchers, responding officers, reviewing or supervising officers, command staff and other appropriate personnel as they relate to agency response to hate crimes and incidents
- Understanding of related California and Federal laws
- Understanding of California Department of Justice and Federal Bureau of Investigation reporting requirements

The orientation should include the following:

- Agency investigation and reporting policy
- Local prosecuting agency charging policy

Development and delivery of the training should involve the following persons:

- The agency chief executive officer
- The agency lead investigator with expertise specializing in hate crime
- A prosecuting attorney to ensure that prosecutorial requirements are included

- A community “advocate” for hate crime victims or community human rights organizations involved in the issue of hate violence

NOTE: This is a guideline for each law enforcement agency to develop its own procedures and protocols for addressing hate crime in their prospective jurisdictions. A sample guideline from the Los Angeles Police Department has been included in APPENDIX E to serve as a model.

Expanded Course Outline for Training

Expanded Course Outline for Training

The following training curriculum is designed primarily for an eight-hour training class. The eight-hour format is recommended and intended to maximize adult learning principles and modalities. Following this eight hour outline is an abbreviated outline which indicates core curriculum for an approximate four hour presentation. (See page 21).

POST certification of this standardized course requires that it be taught by an instructional team. That team should minimally include:

- 1) a prosecuting attorney,
- 2) a peace officer who has experience in investigating hate crimes and,
- 3) a community services representative as the third team member, if available in your area.

Any questions regarding this curriculum should be directed to the Center for Human Relations, Training Programs Services Bureau, at (916) 227-3902.

Due to the complex issues that are discussed in this curriculum, POST will only approve course certification requests which include instructor resumes that reflect recent and specific training in this area. Secondly, the resumes must also show that the instructors have completed a related “train-the-trainer” course that promotes adult learning principles.

Expanded Course Outline for Instructors

Hate Crime Curriculum

Session A (45 min.)

Introduction and Overview: Defining the Challenge

POST Policy #1, #9

- I. Introductions, session objectives [Tran A.1] **(5 min.)**
- II. Presentation: Overview of hate crime [Tran A.2] **(5 min.)**
 - A. Program goals
- III. History of law enforcement involvement **(15 min.)**
 - A. Protector of civil rights [Tran A.3]
 - B. Enforcer of civil rights
 - C. Owners of own civil rights (police officers as private citizens)
 - D. Catalyst for riots/Civil disturbance
 1. Watts riots of 1965
 2. Civil unrest in L.A. after Rodney King verdict in 1992
 - E. Instrument of (individual) political agenda
 1. Strikebreakers (1865-1915) in service of big business
 - F. Equal enforcement of law without prejudice
- IV. Hate crimes, harassment, discrimination, bias, and prejudice **(20 min.)**
 - A. Relationship of hate crime, harassment, et al. [Hand A.1]
 1. What is harassment?
 2. What is hate crime?
 - B. Definition of hate crime
 1. Federal definition
 2. State definition [Tran A.4]
 3. Individual protections under the law [Tran A.5]
 - C. The nature of hate crime
 1. No way to address hate crime logically
 2. Hate crime touches larger targeted group, not just individual victim
 3. Law enforcement must be trained so as not to exacerbate (crime) situation
 - D. Hate crime: A unique challenge for professionals
 1. Psychological impact

2. Message crimes
3. Impact on affected (targeted) community
4. Means of prevention
5. Special response demanded from law enforcement
- E. Key points for hate crime enforcement
 1. Victims not demanding special treatment or special rights
 2. Hate crime law protects everyone
 3. Some groups victimized more than others: many affected
- F. Next steps for professionals [Tran A.6]
 1. Greater understanding of the law
 2. Greater understanding of victim assistance
 3. Greater understanding of diversity and affected groups
 4. Improved data collection/documentation
 5. Improved community relations

Session B
(45 min.)

**History and Nature
of Hate Crime**

POST Policy #1, #9

- I. Introduction, session objectives, and viewing videos:
Shadow of Hate and *The New Skinheads* [Tran B.1] **(20 min.)**
- II. Large group discussion, or small group discussion **(15 min.)**
- III. Introduction to history and nature of
hate crime in America **(10 min.)**
 - A. Introduction
 - B. Hate crime statistics [Tran B.2]
 - C. Causal factors of hate [Tran B.3]
 1. Class shift
 2. Demographics shift
 - D. Who commits hate crimes? [Tran B.4]
 1. Thrill seeker perpetrator
 2. Reactive perpetrator
 3. Mission-oriented perpetrator
 4. Identity-conflicted perpetrator
 - E. Who keeps track of hate crime offenses? [Tran B.5]
 1. State level
 2. Local entities
 3. Federal agencies
 4. Non-government agencies

Session C (50 min.)

Identifying the Crime: Definition of Hate Crime, Hate Crime Indicators, and Offender Typology

POST Policy #2, #9

- I. Presentation: Definition of hate crime [Tran C.1] **(20 min.)**
 - A. Definition of hate crime [Tran C.2A]
 - B. Definition of hate incident [Tran C.2B]
 - C. Importance of tracking hate crime [Tran C.3A]
 1. Successful prosecutions
 2. Aids in response to victims/communities [Tran C.3B]
 3. Development of hate crime prevention strategies
 4. Accurate data collection
 - D. Hate crime indicators [Tran C.4] [Hand C.1]
 1. Racial, ethnic, gender, and cultural differences
 2. Comments, written statements, gestures [Photo option]
 3. Drawings, markings, symbols and graffiti [Photo option]
 4. Organized hate groups [Photo option]
 5. Previous existence of hate crime/incident
 6. Victim/Witness perception
 7. Motive of offender
 8. Location of incident
 9. Lack of other motives
 - E. Indicator cautions [Tran C.5]
 1. Case-by-case assessment
 2. Hate language
 3. Mistaken perception
 4. Changes in finding of bias/hate motive
- II. Presentation: Offender typology [Tran C.6] [Tran C.7] **(30 min.)**
 - A. Hate crime offender typology [Hand C.2]
 1. Thrill-seeking offenders [Tran C.8]
 - a. Offender characteristics
 - b. Precipitating events
 - c. Motivation
 - d. Victim
 - e. Location
 - f. Additional characteristics
 2. Reactive offenders [Tran C.9]
 3. Mission offenders [Tran C.10]
 4. Identity-conflicted offenders [Tran C.11]
 - B. Organized hate groups
 1. Group characteristics [Tran C.12]
 2. History and evolution [Tran C.13]
 3. Structure of contemporary hate groups

4. Ideology
5. Strategy
6. Leading hate groups

Session D
(70 min.)

**Legal Issues, Legislation,
and Statutes**

POST Policy #2, #9

- I. Session objectives and presentation: Introduction to federal and state laws [Tran D.1 and D.2] **(5 min.)**
 - A. Introduction to CA hate crime laws
 - B. Types of state criminal statutes
 1. Criminal penalty laws
 2. Cross burning laws
 3. Paramilitary training laws
 4. Parental liability laws
 5. Data collection laws
 6. Police/law enforcement training laws
- II. Presentation: California hate crime laws **(35 min.)**
 - A. Special legal issues [Tran D.3]
 1. Review actual language of the laws
 - B. Protected classes
 - C. Key hate crime definitions
 1. Hate incident (noncriminal)
 2. Hate crime (criminal)
 - D. Primary misdemeanor/felony statutes
 - E. Other important California hate crime laws
 - F. Federal criminal remedies
- III. California civil statutes **(20 min.)**
 - A. The Ralph Act
 - B. The Bane Act
 - C. Abbreviated California civil statutes
- IV. Important California and federal case law interpreting California hate crime statutes **(35 min.)**
 - A. California supreme court cases
 - B. California court of appeals cases
 - C. California federal hate crime cases
 - D. Important U.S supreme court hate crime cases [Tran D.4-8]

Session E **(45 min.)**

Guidelines for an Effective Response

POST Policy #2, #9

- I. Session objectives, introduction, and preliminary investigation
 - A. Determination of hate crime [Tran E.2]
 - B. Initial response to a hate crime
- II. Presentation: Effective response **(25 min.)**
 - A. Basic responsibilities of the responding officer [Tran E.3A] [Tran E.3B] [Tran E.4] “victims may feel” [Tran E.5] “KKK brochure”
 - B. Benefits of an effective initial response
- III. Possible law enforcement “pitfalls” [Tran E.6] **(5 min.)**
- IV. Reinforcement exercise **(15 min.)**

Session F **(90 min.)**

Investigative Strategies and Collection and Preservation of Evidence

POST Policy #2, #3, #5, #9

- I. Session objectives [Tran F.1] and presentation: Investigative strategies **(25 min.)**
 - A. Interviewing victims, witnesses, and suspects of hate crimes
 - B. Preliminary steps in interviewing the victim [Tran F.2]
 - C. Strategies for conducting effective investigative interviews of hate crime victims [Tran F.3]
 - D. Strategies for enhancing witness cooperation [Tran F.4]
 - E. Questions for witnesses
 - F. Interviewing suspects
 - G. Questions for suspects
- II. Presentation: Collecting and preserving evidence **(20 min.)**
 - A. Special considerations [Tran F.5]
 1. Language
 2. Graffiti
 3. Property damage
 4. Personal injury
 5. Threatening letters
 6. Symbols
 7. Coordination [Tran F.6]
- III. Reporting of hate crime **(15 min.)**
 - A. The crime report
 - B. Second level review
 - C. DOJ/FBI reporting requirements
 - D. Challenges in reporting the crime

IV. Reinforcement role playing sections E & F **(40 min.)**

Session G
(40 min.)

Victim Trauma

POST Policy #3, #9

- I. Session objectives [Tran G.1] and presentation overview of victim trauma **(5 min.)**
 - A. Crisis victimization [Tran G.2]
 - B. Types of victim trauma/injury [Tran G.3]
- II. Activity: Analysis of video segments [Hand G.1] **(20 min.)**
 - A. Secondary injury
- III. Presentation: Unique features of hate crimes and their impact on hate crime victims **(15 min.)**
 - A. Unique features of hate crimes [Tran G.4]
 - B. Unique impact of hate crimes [Tran G.5]
 - C. Victim impact [Tran G.6]
 - D. Community impact [Tran G.7]

Session H
(55 min.)

**Community Strategies
and Relationships**

POST Policy #4, #6, #9

- I. Session objectives [Tran H.1] and presentation: community leaders and community groups **(10 min.)**
 - A. Definition of “community” [Tran H.2]
 - B. Definition of “community leader” [Tran H.3]
- II. Presentation: Impact of hate crime on a community [Tran H.4] **(5 min.)**
- III. Presentation: Community relations skills [Tran H.5] **(30 min.)**
 - A. Community relations
 - B. Advantages of positive community relations in dealing with hate crime [Tran H.6]
 - C. Importance of good relations with media and community
 - D. Benefits of cultural awareness in addressing hate crime
- IV. Case illustration: Community impact from hate crime [Tran H.7] **10 min.)**

Hate Crimes Alternate Training Outline

Four hour presentation outline sections:
(requires special justification to POST for certified presentations)

Session A

I, II

Session B

I, II, III A thru E

Session C

I A thru D, II

Session D

IA, II A thru F

Session E

I, II

Session F

I A thru G, II, III, IV

Appendix A

Definitions of Hate Crime Terminology

Definitions of Hate Crime Terminology

Bias	A preconceived negative opinion or attitude toward a group of persons based on their race, religion, national origin, sexual orientation, gender, mental or physical disability. For purposes of hate crime and hate incidents, “bias” is interpreted as “hate.”
Bisexual	Of or relating to persons who experience physical, emotional, and sexual attraction toward, and responsiveness to, both males and females. Considered correct to use as an adjective or a noun.
Command Staff	The executive officer of a law enforcement agency who, after notification of a possible hate crime or incident, is responsible for initiating executive, investigative, and community contacts consistent with agency policy.
Disability	The manifestation of a physical or mental impairment, infirmity, malformation, or disfigurement in any person or group of persons that is caused by bodily injury, birth defect, or illness, including epilepsy, and that includes but is not limited to any degree of paralysis, amputation, lack of physical coordination, blindness, or visual impediment, deafness or hearing impairment, muteness or speech impairment, or form of mental, psychological, or developmental disability. The definition has recently been extended to include persons with HIV/AIDS/ARC, or who have traumatic brain injuries. Former terms: “handicap” and “handicapped”.
Ethnic Group	Any group or class of individuals within a cultural or social system that can be distinguished on the basis of variable traits, including national origin, religion, linguistics, ancestry, traditions, customs, attire, et al. criteria.
Gang	A group of people that forms an ongoing, mutual allegiance in response to various social needs and engages in criminal activities and actions harmful to public health, safety, and morals. Gangs do not have an organized vertical hierarchy or chain of command (i.e. skinheads).
Gay	Of or relating persons who experience physical, emotional, and sexual attraction towards, and responsiveness to, others of their same sex; primarily used in reference to males who experience attraction for other men.

Gender	Male, female, or transgender. “Transgender” refers to person who are pre- or post-operative in the transition from male to female or female to male.
Handicap	See “disability”.
Hate Crime	A hate crime is any criminal act or attempted criminal act directed against a person(s), public agency, or private institution based on the victim’s actual or perceived race, nationality, religion, sexual orientation, disability, or gender, or because the agency or institution is identified or associated with a person or group of an identifiable race, nationality, religion, sexual orientation, disability, or gender. A hate crime includes an act that results in injury, however slight; a verbal threat of violence that apparently can be carried out; an act that results in property damage; and property damage or other criminal act(s) directed against a public or private agency.
Hate Group	An organization the primary purpose of which is to promote animosity, hostility, and malice against persons belonging to a racial, religious, ethnic/national origin, or sexual orientation, gender, mental disability or physical disability group that differs from that of the members of the organization (e.g. Ku Klux Klan, American NAZI Party, Christian Identity, etc.).
Hate Incident	<p>Noncriminal conduct that is motivated by hatred or bigotry and directed at any individual, residence, or house of worship, institution or business expressly because of the victim’s (person or institution) real or perceived race, nationality, religion, sexual orientation, gender, mental disability, or physical disability. Hate incidents also include conduct directed against an individual or group because of their association or advocacy on behalf of a member or members of a protected class.</p> <p>A hate incident might include hate speech, display of offensive materials on one’s own property, the distribution of hate materials in public places and the posting of hate materials that does not result in property damage.</p>
Lesbian	Of or relating to women who experience a physical, emotional, and sexual attraction toward, and responsiveness to, other women.

Protected Class Protected classes for the purpose of imposition of (California) State criminal liability include: race, nationality, national origin, religion, sexual orientation, gender, mental and physical disability except that the bias-based motive is merely suspected, not actually confirmed.

Civil and federal remedies may also be available for victims of hate crime and incidents. Protected classes may include the above and may extend protection to include bias based on age, political affiliation, advocacy or position in a labor dispute. (cf. Unruh Civil Rights Act, Ralph Act, etc.)

Race A group of persons who share common physical characteristics that are genetically inherited and that are used to identify them. Some examples include color of skin and eyes, type of hair, and/or facial characteristics. Primary races are Caucasoid, Mongoloid, and Negroid.

Religion (Formal) beliefs regarding the origin and purpose of the universe and existence or nonexistence of a supreme being(s), higher power, or higher order. Examples include, Christianity, Judaism, Islam, Buddhism, Agnosticism, Atheism, Shinto, et al.

First Responding Officer The first law enforcement officer on the scene of an alleged bias incident. This officer may have witnessed the incident taking place, may have been called to the scene by the/a victim or a witness, or may have received the assignment from a supervisor or dispatcher. This officer is responsible for determining whether a “suspected hate incident/crime” has occurred.

Sexual Orientation The direction of sexual, emotional, and/or physical attraction and preference that may be primarily toward persons of the opposite sex (heterosexuality), primarily toward persons of the same sex (homosexuality, or gay and lesbian), or toward both sexes (bisexuality). Often incorrectly referred to as “sexual preference”.

Appendix B

Criminal and Civil Laws Pertaining to Hate Crime

California Criminal Statutes

Misdemeanor Statutes [M]

Penal Code § 302 [M]

Disturbance of religious meetings.

Penal Code § 422.6 [M]

Interference with exercise of civil rights. Threat of harm, actual harm or property damage under \$500.

Penal Code § 422.6(a) [M]

Provides that it is a misdemeanor to interfere by force or threat of force with a person's constitutional rights because of his or her race, color, religion, ancestry, national origin, disability, gender or sexual orientation (Penalty up to one year in jail, or \$5,000, or both).

Penal Code § 422.6(b) [M]

Provides that it is a misdemeanor to damage a person's property because of his or her race, color, religion, ancestry, national origin, disability, gender or sexual orientation (penalty up to one year in jail or \$5,000, or both).

Penal Code § 422.6(c) [M]

Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine, and the court shall order the defendant to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than his or her hours of employment or school attendance. However, no person shall be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

Penal Code § 422.9(a) [M]

Provides it is a misdemeanor punishable by up to 6 months in jail or \$1,000 or both to violate an order issued pursuant to Civil Code Section 52.1 (a) or (b).

Penal Code § 427.9 [M]

Willful violation of court order.

Penal Code § 538(c) [M]

Unauthorized insertion of advertisements in newspapers.

Penal Code § 594.1 [M]

Unauthorized sale to a minor of aerosol containers capable of defacing property.

Penal Code § 594.3(a) [M]

Vandalism of church, synagogue, building of religious education institution or other. Place of worship based on racial or religious prejudice.

Penal Code § 640.2 [M]

Unauthorized stamping, printing or insertion of any writing in consumer products offered for sale.

Penal Code § 11411(a) [M]

Terrorism of owner or occupant of real property; placement or display of sign symbol on other physical impression without authorization.

**Felony
Statutes [F]**

Penal Code § 139 [F]

Constitutes a felony when someone already convicted of a felony communicates to witnesses, victims, informants, or their immediate families a credible threat to use force or violence.

Penal Code § 190.2(a)(16) [F]

Provides a death penalty for murder if the victim's race, color, religion, nationality, or national origin was/were the substantial motivating factor(s) of the crime.

Penal Code § 422.7 [F]

Intimidating or interfering with a person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the defendant perceives that the other person has one or more of those characteristics, under any of the following circumstances, which shall be charged in the accusatory pleading:

- (a) The crime against the person or another either includes the present ability to commit a violent injury or causes actual physical injury.
- (b) The crime against property causes damage in excess of five hundred dollars (\$500).
- (c) The person charged with a crime under this section has been convicted previously of a violation of subdivision (a) or (b) of Section 422.6, or has been convicted previously of a conspiracy to commit a crime described in subdivision (a) or (b) of Section 422.6.

Penal Code § 594.3 [F]

Provides that it is a felony or misdemeanor knowingly to vandalize a place of worship.

Penal Code § 594.3(b) [F]

Vandalism: Church, synagogue, building of religious education, institutions or other place of worship if based on racial or religious prejudice.

Penal Code § 11411(b) [F]

Terrorism of owner or occupant of real property; pattern of conduct of placement or display of sign, symbol or other physical impression without authorization.

Penal Code §11411(c) [F]

The burning or desecration of religious symbols on the private property of another or on the property of another or on the property of a school for the purpose of terrorizing.

Penal Code §11412 [F]

Threat to inflict injury upon a person with the intent to obstruct the free exercise of religion.

Provides that it is a felony to attempt to discourage religious activities by threats of violence.

Penal Code §11413 [F]

Terrorism: Use of destructive device or explosive on commission of arson on private property, place of worship, health facility, a facility that counsels on abortion, library or school.

Provides that it is a felony to use a bomb against or to set on fire a place of worship.

**Penalty and
Sentencing
Enhancements**

Penal Code §190.2(a)(16)

Death penalty or life imprisonment without parole for intentional murder because of race, color, nationality, country of origin, or religion.

Penal Code §422.75

Provides for sentencing enhancements of 1 to 3 years for certain hate-motivated felonies against the aforementioned groups; for heightened penalties of 2 to 4 years if the felony hate crime was committed in concert with another; adds a year if the defendant had a prior hate crime conviction; provides that the use of a firearm can be an aggravating factor.

Penal Code §427.75(a)-(e)

Felony or attempt to commit a felony because of the victim's actual or perceived race, national origin, religion, sexual orientation, disability or gender. Victim can be person or property of public agency or private institution. Additional penalties; prior convictions; and mitigating circumstances.

Penal Code §422.95

Probation, classes, programs, counseling or monetary compensation related to racial or ethnic sensitivity or civil rights training. In addition to restitution payment pursuant to P.C. 1203.4 and only after that restitution is paid in full.

Penal Code §1170.75

Provides additional punishment for felonies committed because of a victim's race, color, religion or other protected status as per PC 422.75.

Felony attempted or committed because of victim actual or perceived class membership: Aggravation of crime.

Penal Code §1170.8

Provides additional punishment for robbery or assault of persons within a place of worship.

Arson, robbery or assault with deadly weapon in places of worship, intent to burn or intentional burning of place of worship: Aggravation of crime.

Penal Code §1170.85

Provides additional punishment for felonies committed against the aged or disabled.

Offense to dissuade or prevent witnesses from testifying; offense against vulnerable aged or disabled persons: Aggravation of offense.

Miscellaneous Criminal Statutes

Penal Code §136.2 - Protective Orders

Some protections against further intimidation of hate crime victims and witnesses by the accused perpetrator are available through the district attorney or city attorney who is prosecuting the hate crime.

Once criminal charges are filed under the Bane Civil Rights Act, or under any other criminal statute, hate crime victims have the right to a court order prohibiting any additional harassment, or any communication or contact at all.

Once a 136.2 order is issued, copies are distributed to each protected person, each defendant, and to the appropriate law enforcement agency. Orders are immediately enforceable by law enforcement agencies. Violation of orders can be a misdemeanor, or a felony, if accompanied by force or threat of force.

Penal Code §140

Creates a misdemeanor but does not require that the perpetrator already be convicted of a related crime.

Penal Code §186.21

Constitutional right of every person, regardless of race, national origin, religion, sexual orientation, gender, disability or age to be protected against fear and physical harm by individual or groups.

Penal Code §302

Establishes a misdemeanor wilfully to disturb a group of people who have met to worship.

Penal Code §422.76 - Gender

For purpose of hate crime statutes, “gender” means a person’s actual or perceived sex, and includes a person’s identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person’s sex or birth sex.

Penal Code 422.8

Provides that nothing in sections 422.6 or 422.7 prevents or limits the prosecution of any person.

Penal Code §422.9(b)

Provides up to one year in jail for a person previously convicted of violating an order issued pursuant to Civil Code section 52.1(a) or (b) who is brought and tried upon separate charges.

Penal Code §422.95

Provides that if a person is granted probation for any section 422.6, 422.7, or 422.75 offense, the court may order the defendant to complete a class or program on racial or ethnic sensitivity or other similar training in civil rights if such class or program is available, as a condition of probation.

Penal Code §422.95(b)

States that it is the intent of the Legislature to encourage counties, cities, and school districts to establish education and training programs to prevent hate crime and violations of civil rights.

Penal Code §594. 1

Makes it unlawful for a minor to purchase or any person or entity other than a parent to provide a minor with aerosol paint containers in excess of six ounces.

Penal Code §11410

Constitutional right of every person, regardless of race, color, creed, religion, gender or national origin to be protected from fear, intimidation and physical harm by individual or groups.

States that the urging of violence where harm is possible is conduct not protected by the California Constitution.

Penal Code §11411

Provides that it is a misdemeanor to cause a person to fear for his or her safety by burning a cross or by displaying racist signs.

Penal Code §13023

Local law enforcement agencies shall report to the Department of Justice all crimes motivated by the victim's race, nationality, religion, sexual orientation, gender or mental or physical disability.

Penal Code §13519.6

- (a) The commission shall, on or before December 31, 1993, develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as peace officers but who are enrolled in a training academy for law enforcement officers, addressing hate crimes. "Hate crime," for purposes of this section, means any act of intimidation, harassment, physical force, or the threat of physical force directed against any person, or family, or their property or advocate, motivated either in whole or in part by the hostility to the real or perceived ethnic background, national origin, religious belief, gender, age¹, disability, or sexual orientation, with the intention of causing fear and intimidation.
- (b) The course shall make maximum use of audio and video communication and other simulation methods and shall include instruction in each of the following procedures and techniques:
 - (1) Hate crime indicators.
 - (2) The impact of these crimes on the victim, the victim's family, and the community.
 - (3) Knowledge of the laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes.

¹ POST recognizes that the inclusion of "age" in this category is probably an error/oversight since age is not covered under other hate crime legislation.

- (4) Law enforcement procedures, reporting, and documentation of hate crime.
 - (5) Techniques and methods to handle incidents of hate crime in a non-combative manner.
- (c) The guidelines developed by the commission shall incorporate the procedures and techniques specified in subdivision (b).
 - (d) The course of training leading to the basic certificate issued by the commission shall, not later than July 1, 1994, include the course of instruction described in subdivision (a).
 - (e) As used in this section, “peace officer” means any person designated as a peace officer by Section 830.1 or 830.2.

IMPORTANT NOTE:

All law enforcement agencies are required to develop and have ready for dissemination their own brochures addressing hate crime, providing needed information about community resources and other pertinent issues for victims of hate crime.

Penal Code § 13873

- (a) Every law enforcement agency in this state shall make available a brochure on hate crimes to victims of these crimes and the public.
- (b) The Department of Fair Employment and Housing shall provide existing brochures, making revisions as needed to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties.

Under Government Code §13959-13969.3

Under the California Victims of Crime Program some crime victims may be eligible for financial assistance for non-reimbursed expenses resulting from the crime.

California Civil Statutes

Provides that it is a civil right to be free of violence or its threat against a person or his or her property because of that person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age or disability or position in a labor dispute (bases of discrimination are illustrative, rather than restrictive).

Enforced by the Department of Fair Employment and Housing, which prosecutes, and the Fair Employment and Housing Commission, which adjudicates, by the Attorney General, and district or city attorney and by private attorneys.

Provides for civil penalties of up to \$25,000 for perpetrators, civil remedies to victims of "hate violence," including treble the actual damages (no less than \$1,000), punitive damages, injunctive relief and attorney's fees

Provides protection from interference by threats, intimidation, or coercion or for attempts to interfere with someone's state or federal statutory or constitutional rights (these include association, assembly, due process, education, employment, equal protection, expression, formation and enforcement of contracts, holding of public office, housing, privacy, speech, travel, use of public facilities, voting, worship, and protection from bodily restraint or harm, from personal insult, from defamation, and from injury to personal relations), no proof of "hate motivation" required. According to Court of Appeals decision in Boccard v. City of Hermosa Beach (1944) 29 Cal. App.4th 1797.

Enforced by the Attorney General, any district attorney or city attorney, or a private attorney.

Provides for civil penalties for perpetrators, civil remedies to victims of "hate violence," three times actual damages, but no less than \$1,000, punitive damages, injunctive and other equitable relief with a penalty of six months in jail (violation of the injunctive relief is punishable by a criminal contempt action and or a fine not exceeding \$1,000) and attorney's fees.

Speech alone is not sufficient to support an action under the Bane Act, unless

the speech itself threatens violence against a specific person or group of persons, and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property, and that the person threatening the violence had the apparent ability to carry out the threat.

No order shall restrict the content of a person's speech.

An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

Liability

- Perpetrators
- Conspirators
- Acts of agents or employees

Standing to Sue

- Victim has standing
- Associates of protected class, if also subjected to violence or threats of violence

Actual Damages

Include medical expenses, impaired earning capacity, lost property value, pain, suffering, emotional distress, and loss of services.

Punitive Damages

Available for violations of Civil Code sections 51.7 or 52.1. Must prove that defendant acted with malice, fraud, or oppression. Courts will take into account how reprehensible the conduct was, the defendant's financial condition, and the amount of actual damages. Department of Fair Employment Housing complaints cannot seek punitive damages.

Temporary Restraining Orders, Preliminary and Permanent Injunctions

Means of securing the attention and cooperation of law enforcement agencies. Bane Act's Civil Code Section 52. 1 (e) requires that Bane Act injunctive orders be served on the law enforcement agencies having jurisdiction where the plaintiff resides and any other locations where the court determines that acts of violence against the plaintiff are likely to occur (two copies are served on law enforcement; law enforcement serves one on defendant) if officer called in response to violation of order, police agency is required to provide the responding officer a copy of the order.

Permits enforcement in civil contempt or criminal prosecution.

Abbreviated California Civil Statutes

Civil Code § 51

All persons, no matter what their race, color, religion, ancestry, national origin, sex, sexual orientation, or disability are entitled to the full and equal accommodations or services in all business establishments.

Civil Code § 51.7

All persons have the right to be free from violence or threat of violence against their person or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, disability or position in a labor dispute.

Civil Code §52

Denial of civil rights or discrimination; damages, civil action by people or person aggrieved, intervention, unlawful practice or complaint.

Civil Code §52.1

Injunctive orders per the Bane Act served on law enforcement agency where plaintiff resides or acts may occur.

Penal Code §422.9(c)

Mandates that county prosecuting agencies have the primary responsibility of enforcing orders issued pursuant to Civil Code section 52.

Important California and Federal Case Law

Interpreting California Hate Crime Statutes

In Re M.S. [1995] 10 Cal. 4th 698 Penal Code Sections 422.6 and 422.7 are not unconstitutionally over broad or vague. Proof is required of specific intent to interfere with a person's right protected under state or federal law.

When multiple concurrent causes exist, prohibited bias must be a substantial factor in bringing about the crime.

Group of persons in section 422.6 means specific group of persons, not abstract groups or protected classes.

Apparent ability in section 422.6 implies that threat must be one that would reasonably induce fear of violence in the victim. Threats of violence fall outside the protection of the First Amendment because they coerce by unlawful conduct, rather than persuade by expression.

People v. Superior Court [Aishman] [1995] 10 Cal. 4th 735 Penal Code Section 422.75 requires no proof of specific intent because it simply increases punishment for a felony motivated by prohibited bias. In contrast, section 422.6 and 422.7 import the concept of doing an act with the intent to achieve a further consequence, i.e., to deprive the victim of his or her legal rights, and therefore, requires proof of specific intent. Specified motive under section 422.75 must be a substantial, rather than a trivial, factor in selection of the victim.

California Supreme Court Cases

Coon v. Joseph (1987) 192 Cal. App.3d 1269 (Plaintiff, who witnessed attack on male lover, was not allowed to bring suit under Ralph Act.)

J.R. Norto n Co. v. General Teamsters, Warehousemen and Helpers Union, Local 890 (1989) 208 Cal.App. 3d 430 (Violence by striking employees constituted a violation of section 51.7 and warranted a civil penalty.)

California Court of Appeals Cases

In re David L. (1991) 234 Cal. App.3d 1655, rev.den. 1992 (Penal Code section 422 does not require showing of gang membership; threat to intended victim can be conveyed through third party; person making threat must have specific intent that it be taken as a threat but need not have intent to carry out threat.)

People v. Lashley (1991), 1 Cal.App.4th 938 rev. den 1992, cert. den., (1992) (court held that Penal Code sections 422.6 and 422.7 require proof that the defendant possessed a specific intent to deprive an individual of a right secured by federal or state law, and that the evidence supported the conclusion that defendant interfered with the victims in their exercise and enjoyment of the right to be free from violence.)

People v. Fisher (1993), 12 Cal.App. 4th 1556 (court upheld constitutionality of Penal Code section 422 and rejected arguments that it was overbroad, criminalized protected speech, and was intended to apply only to gang-related activity.)

In re. Joshua H. (1993) 13 Cal. App. 4th 1734, rev. den. (1993) (Penal Code section 422.7 does not violate the First Amendment; it does not proscribe expression, but it proscribe the conduct of selecting crime victims on the basis of race, color, religion, ancestry, national origin or sexual orientation.)

In re Steven S. (1994) 25 Cal.App. 4th 598, rev. den. (1994) (court upheld the constitutionality of a cross-burning statute).

Bocato v. City of Hermosa Beach (1994) 29 Cal .App. 4th 1797, rev. den. (1994) (In action against city by owners of two stores selling alcoholic beverages challenging the validity of an ordinance requiring them to obtain conditional use permit in order to continue to sell alcoholic beverages, plaintiffs did not state a Civil Code section 52.1 claim because they did not allege that they were among the protected classes specified in the statute; read together, Civil Code sections 51.7 and 52.1 require that a plaintiff claiming interference with his or her right must also allege that the interference was due to his or her race, color or other protected classification.)

Gates v. Superior Court (1995) 32 Cal. App. 4th 481 (Defendant police officers were immune from Ralph Act claim for money damages because of immunity provided by Government Code section 845.)

People v. MacKenzie (1995) 34 Cal. App. 4th 1256, rev. den. (1995) (In prosecution for the hate crime of brandishing a firearm for the purpose of interfering with the civil rights of an African-American, court held that Penal Code section 422.7 was not void for vagueness; prosecution need not show that defendant acted with knowledge of

particular provisions of state or federal law or that he was even thinking in those terms; it is sufficient if the right is clearly defined and the defendant intended to invade Interests protected by constitutional or statutory authority; section 422.7 does not violate equal protection principles since it properly punishes the discriminatory violent offender more harshly than the random violent offender; the statute regulated conduct, not speech.)

Bay Area Rapid Transit Dist. v. Superior Court (1995) 38 Cal. App. 4th 141 (The Bane Act is not a wrongful death provision. It provides for a personal cause of action for the victim of a hate crime and is thus limited to plaintiffs who themselves have been the subject of violence or threats.)

Jones v. KMart Corp. (1998) (When a section 52.1 claim is based on a constitutional right that can only be violated by state action, an action only lies against parties whose conduct is chargeable to the state, not against store employees who engaged in aggressive search and seizure.)

California Federal Hate Crime Cases

Diem v. City and County of San Francisco N.D. Cal. 1988) 686 F. Supp. 806 (Ralph Act claims for religious and other discrimination are not preempted by the Fair employment and Housing Act, Government Code section 12900, et seq.)

Rose v. City of Los Angeles (C.D. Cal. 1993) 814 F. Supp. 878 (A claim under the Ralph Act may not be brought when no violence or intimidation has been committed or threatened against the plaintiff.)

Burnette v. Godshall (N.D. Cal. 1993) 828 F.Supp. 1439 (An individual's Ralph Act rights are nonnegotiable, and thus may not be preempted by collective bargaining agreements.)

Doe v. Petaluma City School Dist. (N.D. Cal. 1993) 830 F. Supp. 1560 (While several sections of the Government Code immunize school officials from claims of infliction of emotional distress, such immunity does not extend to Bane Act claims.)

Rabkin v. Dean (N. D. Cal. 1994) 856 F. Supp. 543, 552 (Interference with rights must rise to violence or threat of violence to be actionable under the Bane Act.)

Reynolds v. County of San Diego (D.D. Cal. 1994) 858 F. Supp. 1064, 1074 (Court dismissed plaintiff's section 52.1 claim for failure to allege the violation of a state right where defendant was immune from suit claiming violation of federal rights.)

Beliveau v. Caras (C.D. Cal. 1995) 873 F. Supp. 1393 (Plaintiff had a Ralph Act claim against the owner of her apartment building for the sexual battery committed by his employee, the resident manager, while he was in her apartment to fix a leaky faucet.)

Gaston v. Colio (S. D. Cal. 1995) 883 F. Supp. 508, 510 (No allegation of discrimination in the complaint, so no standing under Ralph or Bane Act.)

U.S. Supreme Court Hate Crime Cases

R.A.V. v. City of St. Paul (1992) 505 U.S. 377 (Supreme Court struck down city ordinance proscribing messages of racial, gender, or religious intolerance, because it made criminal only those types of expression which were disfavored by the city council; this was held to be impermissible content-based restriction of speech.)

Wisconsin v. Mitchell (1993) 508 U.S. 476 (Mitchell's First Amendment rights were not violated by the application of a penalty-enhancement provision for hate crimes in sentencing him; Wisconsin statute is aimed at conduct unprotected by the First Amendment; state's desire to redress greater individual and societal harm inflicted by bias-inspired conduct was motive for passing statute, not disagreement with offenders' beliefs or biases; statute has no chilling effect on free speech.)

1998 Changes in California Hate Crime Law

AB 1417 - ASSEMBLYMAN DAVIS, Chp. 592

Adds: Penal Code § 538(c)

Existing law prohibits as a misdemeanor the stamping, placing, insertion of any writing on/in consumer product offered for sale, except with consent of owner or manager of premises, manufacturer, distributor or resales.

Bill adds prohibition of attachment or insertion of unauthorized advertisements in a newspaper offered for sale except with consent of publisher or distributor.

AB 1404 - ASSEMBLYMAN JOHNSTON, Chp. 414

Adds: Penal Code § 1141(c)

Under existing law, any person who burns or desecrates a cross or other religious symbol on the private property of another with the intent to terrorize, or reckless disregard of terrorizing owner/occupant is guilty of a misdemeanor.

Bill now includes property of a school.

AB 1450 - ASSEMBLYMAN SHELLY, Chp. 850

Adds: Penal Code § 422.6(c)

Increases penalty for property misdemeanor hate crimes by mandating the defendant to perform a minimum of community service.

AB 1999 - ASSEMBLYMAN KUEHL, Chp. 933

Expands “gender” to include trans-gender (both pre- and post-operative) and transvestites. “Victim’s” actual sex, defendant’s perception of the victim’s sex, and defendant’s perception of the victim’s identity or appearance, whether or not it is different from that traditionally associated with the victim’s sex at birth. Penal Code Section 422.75(a): Adds gender as a sentencing enhancement. Penal Code Section 422.75(b): Adds gender to public agencies and private institutions.

Federal Hate Crime Laws

18 USC Section 241 - Conspiracy Against Rights.

FELONY - Statute protects against conspiracies to oppress, threaten, intimidate any person in free exercise of federally granted rights. Specifically targets the right to vote, own property, use public accommodations, and occupy a home, without regard to race.

18 USC Section 245 - Interference with Federally Protected Activities.

FELONY - Enacted in 1968 in an effort to protect Civil Rights workers from attacks in voting and election activities. This legislation covers any activities financed by the Federal government. This includes attending public schools, public entertainment facilities, gas stations, restaurants, and any other establishments that serve the public.

18 USC Section 247 - Damage to Religious Property/Obstruction of Religious Activity.

FELONY - Prohibits the damaging or destroying of religious property because of the religious nature of that property. Also protects against practice of religious beliefs by force or fear.

42 USC Section 3631 - Willful Interference with Civil Rights under the Fair Housing Act.

FELONY - Prohibits the interference with buying, selling, renting, to any person due to race, color, religion, sex, handicap, familial status, or national origin. Commonly included at cross-burnings and threats.

NOTE: The following are important points to remember:

- Effective tools are the use of Dual Prosecutions - these are used when local or state or Federal prosecutions are individually unsuccessful.
- Juveniles may be prosecuted under California State as well as under Federal laws. California law allows for the prosecution and sentencing of juveniles as adults.
- Federal Grand Juries can compel the testimony of friends and associates and can be instrumental in solving a case.
- Federal law compels all jurisdictions to report all hate crimes (28 USC 534).

California Education Codes Pertaining to Hate-Motivated Behavior and Crime

EC§ 45 Legislative Declaration and Intent

- (a) All pupils have the right to participate fully in the educational process, free from discrimination and harassment.
- (b) California's public schools have an affirmative obligation to combat racism sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.
- (c) Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.
- (d) There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.
- (e) There is an urgent need to teach and inform pupils in the public schools about their rights, as guaranteed by the federal and state constitutions, in order to increase pupils' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in public schools and in society as a means of responding to potential harassment and hate violence.
- (f) It is the intent of the Legislature that each public school undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of pupils to equal educational opportunity.

EC§ 33032.5 (e) Definition of "Hate Violence"

- (e) As used in this section, "hate violence" means any act punishable under Section 422.6, 422.7, or 422.75 of the Penal Code.

EC§ 48900.3 Hate Violence

In addition to the reasons specified in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 33032.5.

EC§ 48907 Student Exercise of Free Expression

Students of the public schools shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, the wearing of buttons, badges, and other insignia, and the right of expression in official publications, whether or not such publications or other means of expression are supported financially by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous. Also prohibited shall be material which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school.

Each governing board of a school district and each county board of education shall adopt rules and regulations in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its respective jurisdiction.

Student editors of official school publications shall be responsible for assigning and editing the news, editorial, and feature content of their publications subject to the limitations of this section. However, it shall be the responsibility of a journalism adviser or advisers of student publications within each school to supervise the production of the student staff, to maintain professional standards of English and journalism, and to maintain the provisions of this section.

There shall be no prior restraint of material prepared for official school publications except insofar as it violates this section. School officials shall have the burden of showing justification without undue delay prior to any limitation of student expression under this section.

“Official school publications” refers to material produced by students in the journalism, newspaper, yearbook, or writing classes and distributed to the student body either free or for a fee.

Nothing in this section shall prohibit or prevent any governing board of a school district from adopting otherwise valid rules and regulations relating to oral communication by students upon the premises of each school.

EC§ 48910 Suspension by Teacher

- (a) A teacher may suspend any pupil from the teacher’s class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the principal’s designee for appropriate action. If that action requires the continued presence of the pupil at the school site, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor or a school psychologist shall attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.
- (b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.
- (c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the principal’s designee for consideration of a suspension from the school.

EC§ 48915 Expulsion; Particular Circumstances

- (a) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school

activity off school grounds, unless the principal or superintendent finds that expulsion is inappropriate, due to the particular circumstance:

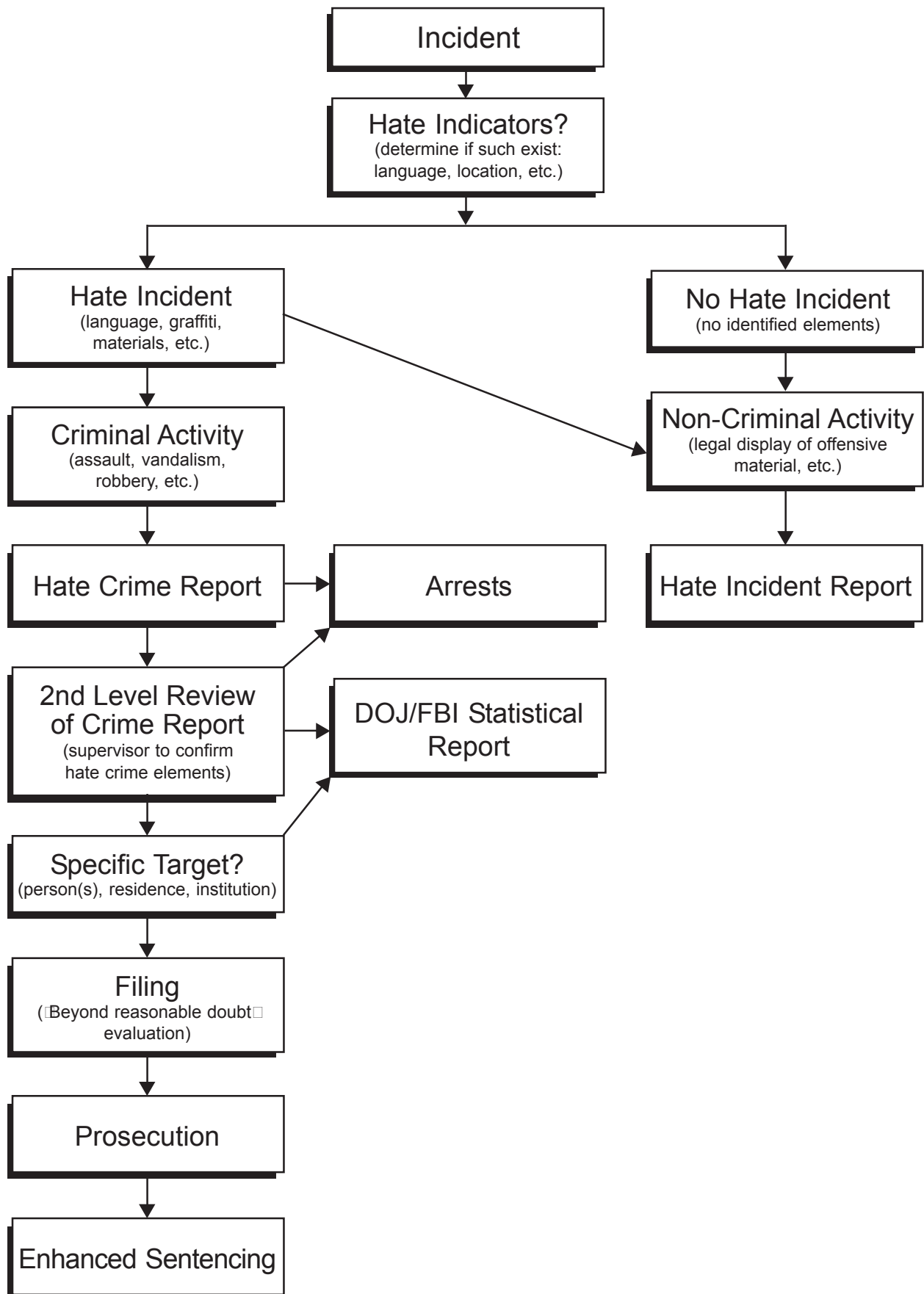
- (1) Causing serious physical injury to another person, except in self-defense.
 - (2) Possession of any knife, explosive, or other dangerous object of no reasonable use to the pupil.
 - (3) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
 - (4) Robbery or extortion.
 - (5) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.
- (b) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil committed an act listed in subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel shall be based on a finding of one or both of the following:
- (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
 - (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.
- (c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 4891 1, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:
- (1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is

concurred in by the principal or the designee of the principal.

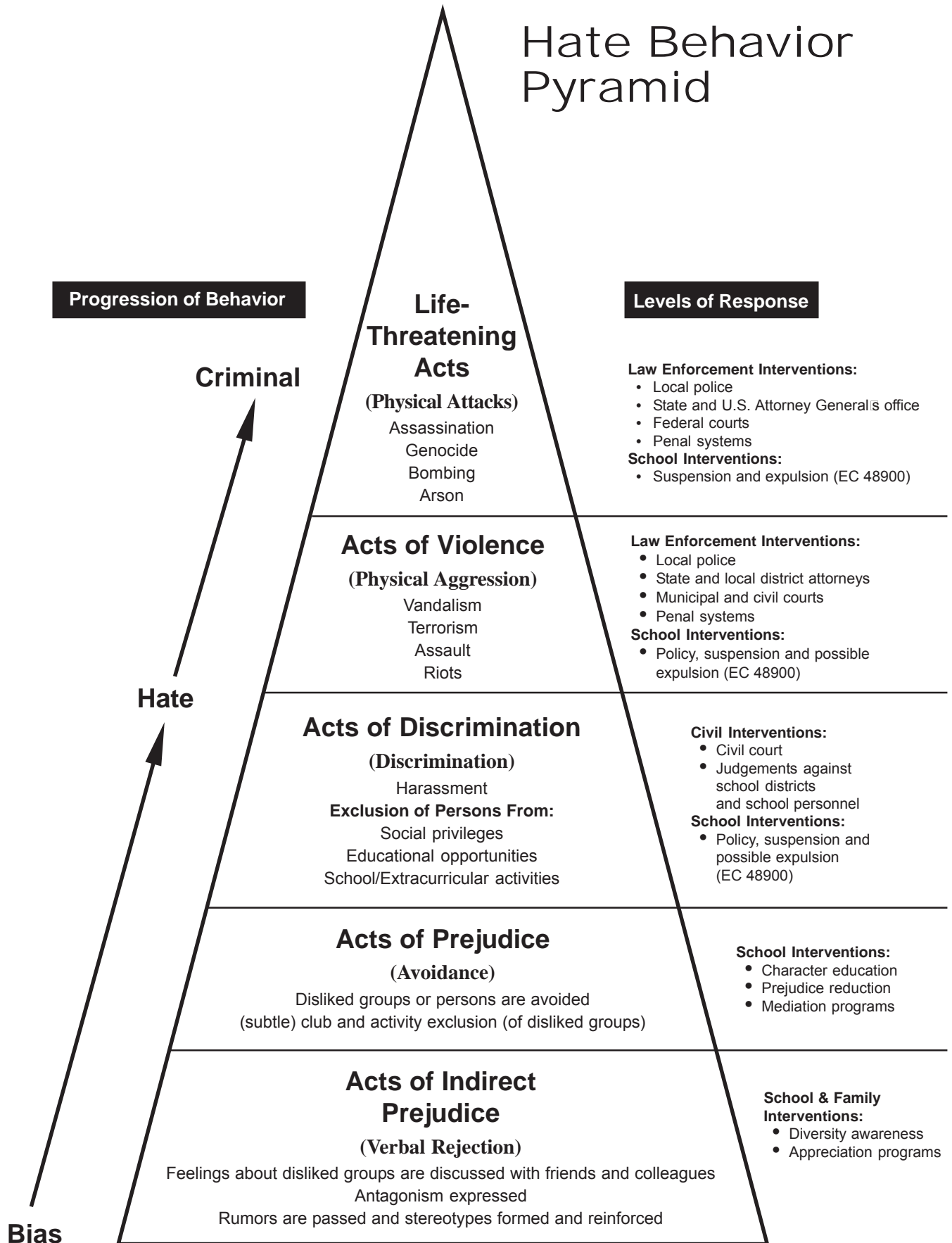
This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district.

- (2) Brandishing a knife at another person.
 - (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
 - (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
- (d) The governing board shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:
- (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.
 - (2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.
 - (3) Is not housed at the school site attended by the pupil at the time of suspension.
- (e) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (1), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:
- (1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
 - (2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

Hate Crime Response for Law Enforcement

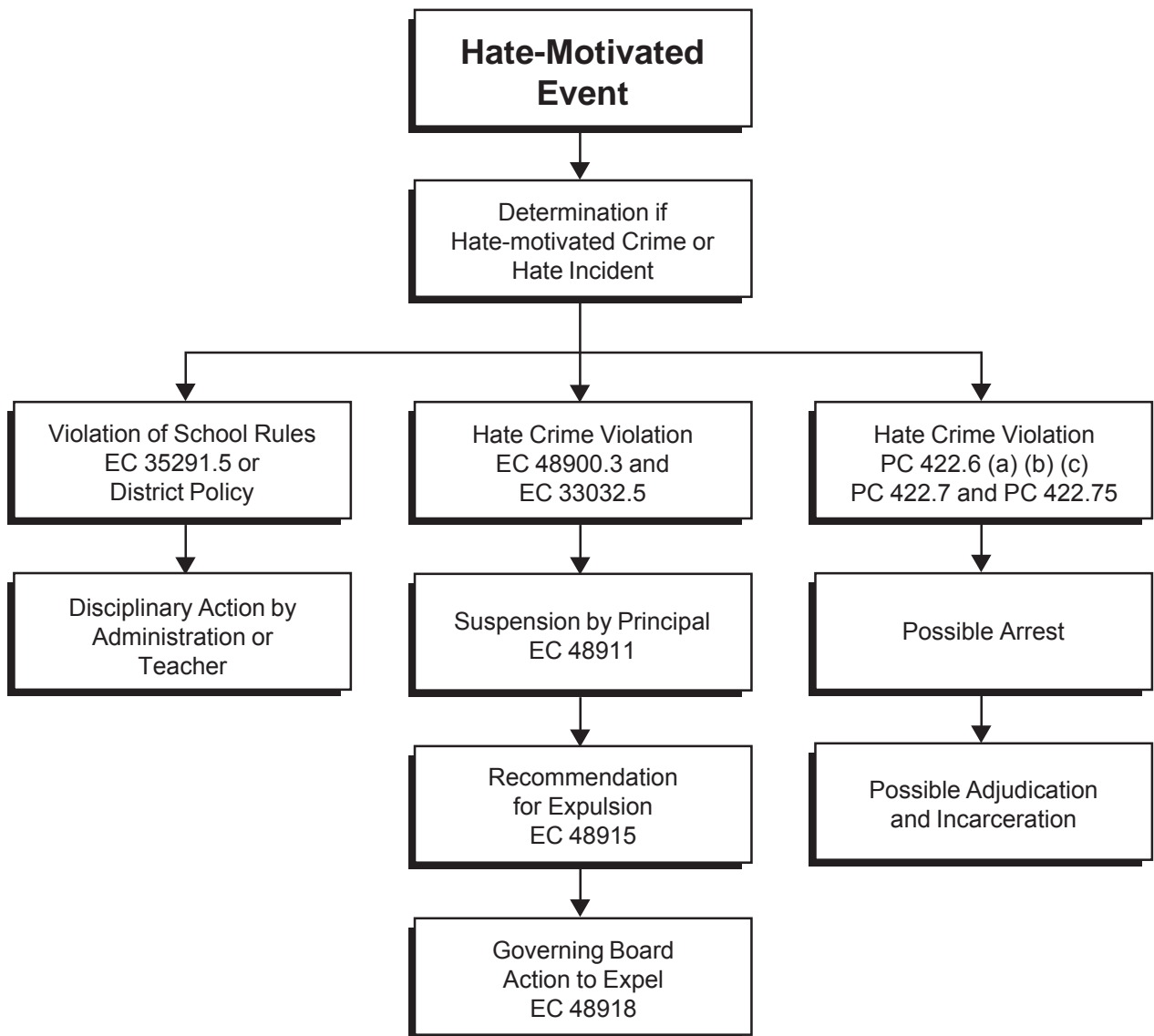


Hate Behavior Pyramid



California Education System

Possible Actions for Hate-Motivated Events



Appendix C

Hate Crime Resources

Hate Crime Resources

B’nai B’rith Antidefamation League

San Diego/Imperial Counties - (619) 293-3770

Los Angeles - (310) 446-8712

San Francisco - (415) 981-3500

Services:

- Counseling for victims of anti-Semitic violence
- Law enforcement referrals
- Law enforcement training
- Training on protecting buildings
- School anti-bias training
- Data collection

Materials:

Hate crime laws, World of Difference School Program, institutional protection brochure, hate crime reports

California Association of Human Relations Organizations

(415) 775-2341 • Website - www.cahro.org

Services:

- Victim counseling
- Anti-hate crime network organizing

Materials:

Legislation, police procedures, community training, anti-bias school program

California Attorney General’s Office of Civil Rights

Los Angeles - (213) 897-2177

Sacramento - (916) 327-1465

Services:

- Restraining orders

California Department of Fair Employment & Housing

Check nearest major city phone directory

Services:

- Restraining orders
- Civil investigations

California Department of Justice

(916) 227-3516

Services:

- Hate crime statistics

California Fair Employment & Housing Commission

1455 Golden Gate Avenue, Suite 14500
San Francisco, CA 94102
(415) 557-2325

Services:

- Attorney Training
- Prosecutor Training

Materials:

Prosecution Manual

Community Relations Service

(U.S. Department of Justice)

Northern California - (415) 744-6565
Southern California - (213) 894-2810

Services:

- Community intervention/reconciliation/mediation services

Materials: Varied

**Northern
California
Region**

Asian Law Caucus

(415) 391-1655

Services:

- Counseling for victims of Anti-Asian violence
- Translation
- Data collection
- Legal assistance

Bay Area Hate Crime Investigators Association

c/o San Francisco Police Department
850 Bryant, Room 558
San Francisco, CA 94103
(415) 553-1133

Services:

- Police/community information sharing

Community United Against Violence

973 Market Street, Suite 500
San Francisco, CA 94103
(415) 777-5500
Crisis Hotline (415) 333-4357

Services:

- Counseling for victims of homophobic violence
- Legal assistance
- Speakers bureau
- Data collection

Materials: Brochures

Greater Sacramento Area Task Force on Hate Crime

(415) 554-2776

Services:

- Community and school assistance
- Victim/witness program
- Consultation

Materials: Anti-hate crime material

**Southern
California
Region**

American Friends Service Committee

Border Violence Project (San Diego)
(619) 233-4114

Services:

- Counseling for victims of anti-immigrant violence perpetrated by INS/border patrol

Asian-Pacific American Legal Center

Los Angeles - (213) 748-2022

Services:

- Counseling for victims of anti-Asian violence
- Data collection
- Legal referral

Los Angeles Gay-Lesbian Center - Antiviolence Project

(213) 993-7676

Services:

- Hot Line 1-800-373-2227
- Counseling for victims of homophobic and domestic violence
- Legal assistance
- Data collection

Materials: Hate Crime Report

Alameda County **Alamedans Together Against Hate**

(510) 865-1557

Services:

- Police liaison
- School liaison

Humboldt County **Humboldt County Human Relations Commission**

(707) 269-2052

Services:

- Hate crime hotline

Los Angeles County **Los Angeles County Human Relations Commission**

Network Against Hate Crime
320 West Temple, Room 1184
Los Angeles, CA 90012
(213) 974-7611 (general office)
(213) 974-7626

Services:

- Victim counseling
- Data collection
- Data analysis
- Law enforcement/school liaison
- Community training

Museum of Tolerance

Tools for Tolerance for Law Enforcement
9760 W. Pico Blvd.
Los Angeles, CA 90035
(310) 722-7608

Services:

- Law enforcement training
- High technology interactive museum
- Data collection and analysis
- Research library
- Educational training
- General professional training

Orange County Orange County Human Relations Commission

Hate Crime Network
1300 South Grand Avenue, Building B
Santa Ana, CA 92705
(714) 567-7470

Services:

- Victim Counseling
- Victim Advocacy
- Data Collection
- Law Enforcement Network
- School Programs

**Sacramento City Human Rights/Fair Housing Commission
and County**

(916) 444-6903 ext. 132

Services:

- Victim services referral/information/support
- Data collection
- Law enforcement liaison

Materials: Brochures

**San Diego San Diego City Human Relations Commission
County**

Hate Crime Registry
(619) 236-6520

Services: Victim counseling

**San Francisco Intergroup Clearinghouse
City and County**

(415) 896-1355

Services:

- Victim counseling
- Police training
- School program
- Data collection

Materials: Brochures

Contact Program

(408) 275-6176

Services: Hate hotline

**Santa Clara
County**

Santa Clara County Human Relations Commission

70 West Hedding, West Wing
San Jose, CA 95110
(408) 299-2206

Services: Victim referral

Sonoma County

Sonoma County Human Rights Commission

2300 County Center Drive, Suite B167
Santa Rosa, CA 95403
(707) 527-2693

Services:

- Victim counseling
- Law enforcement liaison

**Other
Resources
Outside
California**

Bureau of Justice Assistance Clearinghouse

Office of Justice Program
P.O. Box 6000
Rockville, MD 20849-6000
(800) 688-4252

Materials:

- Educational and instructional materials
- Videos

National Center for Hate Crime

Prevention/Education Development Center
55 Chapel Street
Newton, MA 02158-1060
(617) 969-7100 ext 2360
(800) 225-4276
FAX (617) 244-3436

Services:

- Victim counseling
- Education and instructional materials

Southern Poverty Law Center

P.O. Box 548
Montgomery, Alabama 36101-0548
phone: 334-264-0286
fax: 334-264-7310
internet address: <http://www.splcenter.org>

Services:

- Victim counseling
- Law enforcement liaison
- Education and instructional materials
- Videos available through Teaching Tolerance (a division of the Southern Poverty Law Center)

Appendix D

Departmental Hate Crime Policy and Procedures

Sample Framework

Departmental Hate Crime Policy and Procedures

Sample Framework

Successful department policies that address hate crimes or incidents generally contain certain common elements. These elements, as listed below, are intended to provide insight and guidance into developing a policy that meets the individual needs of local law enforcement agencies.

In Section E there are sample law enforcement agency policies and procedures (or general orders) which can be used as a reference. It is important to note that although these sample policies may be helpful, they may not meet all the individual needs of your agency. We recommend that you conduct additional research to ascertain the specific elements that may be appropriate for your agency policy.

I. Purpose

Refer to POST Guideline #1 and #2, and “general statement of your agencies commitment to combating hate crimes.”

II. Policy

Refer to POST Guideline #3.

III. Definition of Hate Crime and Incidents

Provide and define “Hate Crime,” define “Hate Incident,” and see Appendix “A” - Definitions.

IV. Laws - Civil and Criminal

See Appendix “B” - Criminal and Civil Laws

V. Statistical Reporting

See Appendix “F” - Reprint of California Department of Justice, Information Bulletin No. 94-25 OMET and No. 98-26-BCIA.

VI. Initial Response Procedures

For dispatchers, patrol officers, custody operations, and desk personnel or others who take reports. See Appendix “E” - Sample Law Enforcement Agency Policy.

VII. Investigative Procedures

Defines supervisor and investigator responsibilities. See Appendix “E” - Sample Agency policy.

VIII. Crime Prevention/Community Relations

See POST Guidelines #3, #4, #5, & #6.

IX. Training

See POST Guideline #9 - Training Outlines and POST Training. Catalog of available courses.

X. Victim Referrals

See POST Guideline #6, and Appendix “C.”

Appendix E

Sample Law Enforcement Policies and Information

Los Angeles Police Department Special Order No. 38

Office of the Chief of Police

December 4, 1998

Subject Crimes or Incidents Motivated by Hatred or Prejudice - Special Order #38

Purpose The Los Angeles Police Department has long recognized the very serious nature of crimes and incidents motivated by hatred or prejudice and has taken an active leadership role in these investigations. As a result, a standardized protocol has evolved for the investigation of these acts including the gathering, maintenance, and dissemination of related information as well as the training of Department employees who handle hate crime occurrences. This Order establishes Department policy for investigating and reporting crimes and incidents motivated by hatred or prejudice and incorporates a procedure for these investigations into the Department Manual.

Policy The City of Los Angeles values the great diversity of its people and recognizes that a threat against any portion of our community is truly a threat against our diverse way of life. Acts or threats of violence motivated by hatred or prejudice are serious acts, often vicious in nature, which tear at the fabric of our community. These occurrences generate fear and concern among victims as well as the entire community and have the potential of recurring, escalating and possibly causing counter-violence.

It is the policy of the Los Angeles Police Department to ensure that the rights of all people, as guaranteed by the Constitutions of the United States and the State of California, are protected. Among those constitutional guarantees is the right of all people to live without fear of attack by or threat from an individual or group due to hatred or prejudice. An act or threat of violence motivated by hatred or prejudice threatens this constitutional guarantee and generates fear and concern among victims and the public. When any act motivated by hatred or prejudice occurs, the Department will ensure that it is dealt with on a priority basis and use every necessary legal resource to identify the suspects rapidly and decisively and bring them to justice.

Procedure Definitions

Hate Crime

A hate crime is any criminal act or attempted criminal act directed against a person(s), public agency or private institution based on the victim's actual or perceived race, nationality, religion, sexual orientation, disability, or gender or because the agency or institution is identified or associated with a person or group of an identifiable race, nationality, religion, sexual orientation, disability, or gender. A hate crime includes an act that results in injury, however slight; a verbal threat of violence that apparently can be carried out; an act that results in property damage; and, property damage or other criminal act(s) directed against a public or private agency.

Hate Incident

A hatred incident is any noncriminal act including words directed against a person(s) based on that person's actual or perceived race, nationality, religion, sexual orientation, disability, or gender. Hate incidents include, but are not limited to, epithets, distribution of hate material in public places, posting of hate material that does not result in property damage, and the display of offensive material on one's own property.

Reporting and Investigating

Employees - Responsibility

A Department employee who becomes aware of a crime or incident motivated by hatred or prejudice shall:

- Investigate the crime or incident in a timely manner;
- Notify the watch commander, Area of occurrence;
- Notify the Administrative Information Desk, Detective Headquarters Division (DHD), for inclusion of the crime or incident in the Chief of Police 24-Hour Occurrence Log and document the notification in the related report; and,
- Complete the appropriate crime or arrest report(s) and check the "Motivated by Hatred/Prejudice" box. If the incident does not constitute a specific crime, the PIR shall be titled "Hate Incident."

The unwillingness of a victim to sign a report or the absence of the victim does not exempt an officer from the requirement to complete a PIR.

Watch Commanders - Responsibility

Upon notification that a crime or incident motivated by hatred or prejudice has occurred, the Watch Commander shall:

- Review all reports for completeness, including the notification to DHD and cause the reports to be distributed as soon as possible, but no later than the end of watch;
- Direct a sergeant to immediately respond to the scene of a major crime or incident motivated by hatred such as major property damage involved, injury to victim, or vandalism to a house of worship;
- Make an entry regarding the matter in the Watch Commander's Daily Report, Form 15.80; and,
- Forward a copy of the Watch Commander's Daily Report entry along with a copy of the Sergeant's log documenting the contact with the victim to the Community Police Station (CPS) Hate Crime Coordinator.

Detective Headquarters Division - Responsibility

Upon notification of a hate crime or incident occurrence, Detective Headquarters Division shall:

- Log the crime or incident on the Chief of Police 24-Hour Occurrence Log; and,
- Make notifications as required for any violent or major hate crime or incident.

Records Personnel - Responsibility

Upon receipt of a crime or incident motivated by hatred or prejudice report, records personnel shall:

- Enter the information into the Police Arrest and Crime Management Information System (PACMIS), including the "crime or incident motivated by hatred or prejudice" code; and,
- Distribute the report(s) as soon as possible, but no later than 24 hours after the report is taken. In addition to the established

distribution, an extra copy of the PIR and Arrest report shall be distributed to:

- 1 – Detective Services Group
- 1 – Criminal Conspiracy Section, DSD
- 1 – Anti-Terrorist Division
- 1 – Community Relations Section, OCOP
- 1 – Information Resources Division

Community Police Station Hate Crime Coordinator - Responsibility

The Commanding Officer, Operations Support Division (OSD), is the Hate Crime Coordinator for his or her command and shall:

- Assign a specific detective supervisor to coordinate the investigation of all hate crimes and incidents;
- Ensure that a specific detective is assigned to investigate each crime or incident and that an appropriate response is provided to each victim including, but not limited to, compliance with the mandated ten-day follow-up;
- Ensure that each crime or incident is entered into PACMIS properly; and,
- Cause a monthly summary of all hate crimes and incidents to be prepared and forwarded to the bureau commanding officer through the Area commanding officer within two business days of the following month.

Detectives - Responsibility

A detective assigned to investigate a crime or incident motivated by hatred or prejudice shall:

- Contact the victim within ten calendar days of the crime or incident and reassure the victim of the Department's commitment to identifying the suspect and obtain follow-up information;
- Document any additional information on a Follow-Up Investigation, Form 3.14;
- Present all felony hate crime investigations in which the suspect is identified to the District Attorney Hate Crime Suppression

Unit and, as appropriate, to the Office of the United States Attorney, Civil Rights Liaison for filing consideration;

- Present all misdemeanor hate crime investigations in which the suspect is identified to the Special Enforcement Section, Office of the City Attorney, and as appropriate, to the Office of the United States Attorney, Civil Rights Liaison; and,
- Provide the command's Hate Crime Coordinator with a copy of all reports related to the incident.

Area Commanding Officers - Responsibility

The area commanding officer shall:

- Use all available resources in responding to community needs in combating hate crimes and incidents; and,
- Review and forward the monthly summary of hate crimes or incidents to the bureau commanding officer within two business days of receiving the monthly summary.

Bureau Commanding Officers - Responsibility

The bureau commanding officer shall:

- Review each subordinate command's monthly summary of hate crimes or incidents;
- Forward a copy of the monthly summaries to Detective Services Group (DSG), Information Resources Division (IRD), and Criminal Conspiracy Section (CCS) within two business days of receiving the reports; and,
- Initiate a semiannual audit to verify the accuracy of each monthly hate crime summary submitted by subordinate commands and forward a copy of the audit to DSG.

Commanding Officer, Detective Services Group - Responsibility

The Commanding Officer, Detective Services Group (DSG), is the Department's Hate Crime Coordinator and shall:

- Maintain liaison with the Police Commission, Media Relations Section, the Federal Bureau of Investigation Civil Rights Program (CRP) Coordinator, U.S. Attorney, Department of Justice, outside agencies, and community groups regarding crimes or incidents motivated by hate or prejudice;

- Represent the Department on the Hate Crimes Task Force;
- Meet with the Chief of Police to discuss hate crime and incident patterns and the status of major crimes and ongoing investigations;
- At least annually, meet with Community Police Station (CPS) Hate Crime Coordinators and conduct training; and,
- Keep abreast of all internal and external issues pertaining to hate crimes or incidents and, as appropriate, initiate changes to Department procedures in order to improve the Department's response.

Criminal Conspiracy Section, Detective Support Div. - Responsibility

Criminal Conspiracy Section shall:

- Provide staff support to the Department's Hate Crime Coordinator;
- Cause a copy of each crime or incident report motivated by hate or prejudice to be forwarded to the District Attorney, City Attorney, California Department of Justice, and U.S. Attorney each month;
- Investigate any hate crime or incident which exceeds the resources of the geographic investigate unit, as directed by the Department Hate Crime Coordinator; and,
- Assist Investigative Analysis Section in providing department personnel with investigative training on the proper handling of hate crimes or incidents.

Anti-Terrorist Division - Responsibility

Anti-Terrorist Division is responsible for reviewing reports of crime or incidents motivated by hatred or prejudice (2/219.12).

Information Resources Division - Responsibility.

The Information Resources Division (IRD), shall:

- Prepare and distribute statistical reports of hate crimes or incidents as requested by the Department Hate Crime Coordinator;
- Maintain statistical data for the purpose of identifying trends, Modus Operandi, and responsible suspects or groups;

- Prepare quarterly and semiannually reports for the Department Hate Crime Coordinator; and,
- Prepare monthly, quarterly, and annual statistical reports and forward a copy to the California Department of Justice and the Federal Bureau of Investigation, CRP coordinator, within 10 days of the succeeding calendar month.

Training Group - Responsibility

Training Group is responsible for providing department personnel with training pertaining to the proper handling of crimes or incidents motivated by hatred or prejudice.

- **Amendments:** This order amends Section 1/522, 4/203.25, 4/214.50, and 5/030.66 of the Department Manual.
- **Audit Responsibility:** The Commanding Officer, Detective Services Group, shall monitor compliance with this directive in accordance with Department Manual Section 0.080.30.

A handwritten signature in black ink, appearing to read "B. C. Parks". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

BERNARD C. PARKS
Chief of Police

Los Angeles Police Department

Hate Crime Incident Checklist

These guidelines shall be followed for investigations of Hate Crimes and Hate Incidents pursuant to Special Order #38 - LAPD.

I. ARRIVAL AT SCENE

- ☐ Determine location/condition of victim
- ☐ Obtain medical treatment as needed
- ☐ Determine if suspect is still at scene
- ☐ Locate and identify witnesses. Request they remain for questioning
- ☐ Determine whether a Hate Crime or Hate Incident has occurred

II. PRELIMINARY INVESTIGATION

- ☐ Investigate the crime or incident in a timely manner
- ☐ Interview victims/witnesses separately
- ☐ Notify the watch commander, area of occurrence
- ☐ Notify the Administrative Information Desk, Detective Headquarters Division (DHD), for inclusion of the crime or incident in the Chief of Police 24-hour occurrence log and document the notification in the related report
- ☐ Complete the appropriate crime or arrest report(s) and check the ☐ Motivated by Hatred/Prejudice ☐ box
- ☐ If the incident does not constitute a specific crime, the PIR shall be titled ☐ Hate Incident ☐
- ☐ Collect all evidence including that which verifies motive
- ☐ Provide support/resources for the victim

III. INTERVIEW VICTIMS/ WITNESSES

- ☐ Interview victims/witnesses separately
- ☐ Establish the elements of the crime and other details relating to who, what, when, where, why and how
- ☐ Questions to consider:
 - ✓ do you (victim/witness) perceive the action of the offender to be motivated by bias or bigotry (regardless of the victims actual inclusion in that protected group), why?
 - ✓ do you think you were targeted, why?
 - ✓ who do you think is responsible, why?
 - ✓ were there any offensive symbols, words or acts associated with hate groups used?

- ✓ are you the only member (or one of a few) of a protected class who lives in the area?
- ✓ have there been any prior incidents?
- ✓ has there been any recent public activity that would make you (victim) a target?
- ✓ did the suspect carry any literature regarding a particular group?
- ✓ did the incident occur on a holiday or day of significance to the victim's or offender's group?
- ✓ did the suspect have tattoos or clothing that stand out in your mind?

NOTE: Victims may be reluctant to be identified with a protected group. Witnesses may fear retaliation and as a result feel fearful or hesitant to get involved.

IV. IF SUSPECT IS TAKEN INTO CUSTODY

- ☐ Prevent communication between suspect and victim/witnesses
- ☐ Record spontaneous statements made by the suspect (many times hate crime suspects will be proud of their actions and anxious to talk)
- ☐ Administer Admonition of Rights
- ☐ Questions to consider (only after Admonition of Rights):
 - ✓ why did you pick this person?
 - ✓ how do you feel about this person/ group?
 - ✓ did you go looking for this person or group?
 - ✓ did you select the victim at random?
 - ✓ do you belong to a group or organization?
 - ✓ are any others involved in the crime?
 - ✓ do they have a mission or agenda directed toward this person or a particular group?

V. EVIDENCE

- ☐ Photograph any evidence that substantiates the motive, e.g. hate graffiti, cross burning, swastikas, suspect's attire, etc.
- ☐ Recover weapons and book or photograph
- ☐ Identify and retrieve or photograph other evidence, e.g. bloody clothing, destroyed property, hate material, suspect's attire if appropriate, etc.

VI. COMPLETING CRIME REPORT

- ☐ Title the report according to the criminal violation and add "Hate Crime" to the title, e.g. Battery/Hate Crime
- ☐ Check the "Motivated by Hatred/Prejudice" box in the MO section
- ☐ Notify the Administrative Information Desk, Detective Headquarters Division (DHD) telephone (213) 485-2504 and enter the name of the person contacted in the notification box
- ☐ Ensure that elements of all involved crimes are included in the report
- ☐ Document the following in the narrative:
 - ✓ motivation or the lack of motivation any photographs that were taken
 - ✓ MT obtained if the victims and suspects are members of different groups
 - ✓ describe the manner and means of attack
 - ✓ describe any relevant ongoing neighborhood events

NOTE: In crime reports Penal Code Section 422.6 or 422.7 will be identified as additional offenses. The underlying crime (i.e.: battery, vandalism, assault, etc.) should be listed as the main offense.

VII. COMPLETING INCIDENT REPORT (NON-CRIMINAL INVESTIGATIONS)

- ☐ Officers shall complete a P.I.R. titled "Hate Incident"
- ☐ Include the motivation of the suspect
- ☐ Check the "Motivated by Hatred/Prejudice" box in the MO section
- ☐ List persons possibly responsible for the incident in the "Involved Persons" section of the P.I.R. as "witnesses"

NOTE: The unwillingness of the victim of an incident motivated by hatred or prejudice to sign a report, or the absence of a victim to an incident, does not exempt officers from the requirement to complete a P.I.R.

VIII. FOLLOW-UP INVESTIGATIONS Watch Commander

- ☐ Review all reports for completeness, including the notification to DHD and cause the reports to be distributed as soon as possible, but no later than the end of watch
- ☐ Direct a sergeant to immediately respond to the scene of a major crime or incident motivated by hatred such as major property damage involved, injury to victim, or vandalism to a house of worship
- ☐ Make an entry regarding the matter in the Watch Commander's Daily Report, Form 15.80
- ☐ Forward a copy of the Watch Commander's Daily Report entry along with a copy of the Sergeant's log documenting the contact with the victim to the Community Police Station Hate Crime Coordinator

Area Detectives

- ☐ Contact the victim within 10 calendar days of the crime or incident and assure the victim of the Department's interest in identifying the suspect and obtain follow-up information
- ☐ Document any additional information on a Follow-up Investigation, Form 3.14
- ☐ Present all felony hate crime investigations in which the suspect is identified to the District Attorney Hate Crime Suppression Unit and, as appropriate, to the Office of the United States Attorney, Civil Rights Liaison for filing consideration
- ☐ Present all misdemeanor hate crime investigations in which the suspect is identified to the Special Enforcement Section, Office of the City Attorney, and as appropriate, to the Office of the United States Attorney, Civil Rights Liaison
- ☐ Provide the command's Hate Crime Coordinator with a copy of all reports related to the incident

The City of Los Angeles values the great diversity of its people and recognizes that a

threat against any portion of our community is truly a threat against our diverse way of life. Acts or threats of violence motivated by hatred or prejudice are serious acts, often vicious in nature, which tear at the fabric of our community. These occurrences generate fear and concern among victims as well as the entire community and have the potential of recurring, escalation and possibly causing counter violence.

It is the Policy of the Los Angeles Police Department to ensure that the rights of all people, as guaranteed by the Constitutions of the United States and the State of California, are protected. Among those constitutional guarantees is the right of all people to live without fear of attack by or threat from an individual or group due to hatred or prejudice. An act or a threat of violence motivated by hatred or prejudice threatens this constitutional guarantee and generates fear and concern among victims and the public. When any act motivated by hatred or prejudice occurs, the Department will ensure that it is dealt with on a priority basis and use every necessary legal resource to rapidly and decisively identify the suspects and bring them to justice.

Los Angeles Police Department
Hate Crime Elements Chart

ACT	TARGETED VICTIM	MOTIVE
<p>Non-criminal Incident report</p> <p>Examples: Words Flyers</p> <p>Criminal PIR or Arrest Report</p> <p>Examples: Threats Graffiti Assaults Homicides Vandalism</p>	<p>Real, or perceived to be a member of a protect group:</p> <p>Race Gender Religion Disability National origin Sexual orientation</p>	<p>In whole, or in part, based upon:</p> <p>Bias Hatred Bigotry Prejudice</p>

San Francisco Police Department

Sample Public Information Brochure

for Compliance with Penal Code 13873

LAWS AGAINST HATE CRIME

The State of California has two civil rights statutes that will protect you against bias/hate-motivated events. They are the **Ralph Civil Rights Act**, and the **Bane Civil Rights Act**.

There are also criminal laws that are designated to protect victims of hate crime and will ensure a more severe punishment if the person responsible is convicted of the offense.

If you become the victim of an act of hate violence, you can pursue several legal options:

1. **Seek criminal prosecution:** The Police Department and District Attorney's Office can assist you in this area only if you make a police report.
2. **File a civil lawsuit against your attacker:** The City Attorney, District Attorney, State Attorney General, the Department of Fair Employment and Housing, your local Human Rights Commission, and various community groups can also be of assistance.

If you want to report an incident of verbal harassment that does not meet the legal definition of a hate crime, you may do so by contacting **Intergroup Clearinghouse** (phone 415-896-1355) for the name and telephone number of the appropriate agency, or by calling the Hate Crimes Unit directly.

LAWS AGAINST HATE CRIME

Among the legal remedies available under the Ralph and Bane Civil Rights Acts are:

- Court order to protect you from further threats or acts of violence
- Actual monetary damages and a \$25,000 fine against your attacker
- Attorney's fees

EMOTIONAL RESPONSE

Hate crimes can have both immediate and long-term effects on the victim and the entire community. Being aware of them may help you recognize and deal with the effects of your victimization.

Initially you may feel numb with shock and disbelief. You may feel powerless because of why you were attacked. Remember: you were attacked because of who you are, not because you were a victim of opportunity. You cannot change your race, ethnicity, sexuality, etc. Feelings of anger, fear, helplessness, and anxiety may emerge. This is natural. It is important, at this time, to talk with a supportive person or community group, so that you can express your feelings about what has happened. Talking with a professional counselor can also help to alleviate your fears. Please take the time to refer to the list of agencies available to help, found on the attached sheet.

HATE CRIMES AND THE VICTIM

A GUIDE TO THE LEGAL PROCESS

FRED H. LAU
CHIEF OF POLICE

LT. WILLIAM DAVENPORT
SPECIAL INVESTIGATION DIVISION

Prepared by: Inspector Sandi Bargioni
Hate Crimes Unit San Francisco
January 1999

INTRODUCTION

The San Francisco Police Department members of the Hate Crimes unit thank you for your courage and cooperation in reporting the hate crime perpetrated against you.

Hate crimes are among many types of crimes that go under-reported each year because many victims choose to remain silent. The law can effectively protect its citizens only if victims report crimes and follow through with prosecution of offenders. Hate crimes violate the victim's(s') rights. The victim(s) may experience feelings of fear, degradation, and powerlessness as a result of the crime perpetrated against him/her.

This pamphlet has been compiled to help you understand what a hate crime is and to help prepare you for your role in the criminal and/or civil investigation and (possible) resulting prosecution. There are many experienced people within the criminal justice system and your community who will try to make this as easy as possible for you, and who will lend support while you are going through the process. This pamphlet will also tell you where to find help for medical and emotional difficulties that may arise as a result of this type of victimization, as well as provide you with community resources currently available to you.

WHAT IS A HATE CRIME?

Many acts of hate violence fall under the category of hate crimes and are punishable by law. It can be one of the following acts committed against an individual because of who the victim is or who s/he is perceived to be. In other words, you are victimized because of your **RACE, COLOR, RELIGION, NATIONALITY, COUNTRY OF ORIGIN, ANCESTRY, DISABILITY (PHYSICAL & MENTAL), SEXUAL ORIENTATION, or GENDER.**

Hate-motivated events are:

- spoken or written threats or ongoing patterns of intimidation
- destruction/vandalism of property
- physical attacks or attempted attacks

NOTE: Not all incidents of hatred are crimes, however. Verbal name calling, although offensive, is not a crime and must be accompanied by a viable threat of violence and the ability to carry out that threat.

Remember, however, that the reason this crime was committed against you **MUST**, either in whole or in part, be motivated by bias/hate based on your protected status for it to be considered a hate crime.

REPORTING A HATE CRIME

It is the policy of the San Francisco Police Department:

To ensure that rights guaranteed by the constitutions and laws of the State of California and the United States are protected for all citizens regardless of any personal characteristic, and to take a proactive role to protect all citizens against hate crime by investigating prejudice-based criminal events and supporting vigorous prosecution of such cases.

If you believe you have been the victim of a hate crime, you should:

1. Report the crime to your district police station, immediately
2. Write down exactly what was said to you by the offender so you can tell the police
3. Save any evidence that may assist in prosecuting the person responsible
4. Contact a representative of the appropriate community group that will assist you through the legal process
5. Contact the SFPD Hate Crimes Unit Hotline at (415) 553-9140, if you have any questions regarding the above.

Hotline # 415-553-9140

Human Rights/Fair Housing Commission of the
City and County of Sacramento

Sample Public Information Brochure

for Compliance with Penal Code 13873

**CALIFORNIA LAWS AND THE STATE OF
HATE CRIME**

The State of California has enacted several criminal statutes and two civil rights statutes that protect its citizens against hate-motivated events, Penal Code 422.75 - outlines what constitute protected classes in California. These include: race, nationality, country of origin, religion, sexual orientation, gender, and disability. ("Disability" was later expanded to mean both physical and mental disability, "Gender" means a person's actual or perceived sex' and includes a person's identity, appearance or behavior, whether or not traditionally associated with the person's birth sex.)

The two civil rights laws are the Ralph Civil Rights Act, and the Bane Civil Rights Act, Consult with an attorney or with any law enforcement agency for Information on how these statutes protect you. If you are the victim of a hate crime, you may:

1. Seek criminal prosecution: The Police Department and District Attorney's Office can assist you In this area only if you make a police report.
2. File a civil lawsuit against your attacker: The City Attorney, District Attorney, State Attorney General, the Department of Fair Employment and Housing, your local Human Rights Commission, and various community groups can also be of assistance.

**COMMUNITY RESOURCES IN
SACRAMENTO COUNTY**

Anti-Defamation League 916489-9141
of B'nai B'rith 800-446-2684
720 Market Street, S.F.

Asian Pacific Community Counseling 383-6783
5330 Power Inn road, Suite A, Sacramento
Provides services to Chinese, Korean, Japanese, Filipino, and Pacific Islander communities

Asian Resources 424-8960
2251 Florin Road, Suite 108, Sacramento
Provides violence prevention programs, serving Chinese-Vietnamese, Hmong, Mien, and Vietnamese Communities

Human Rights/Fair Housing 444-6903
Commission of the City and County
1112 - I Street, Suite 250, Sacramento

Japanese-American Citizens League 447-0231
2124 - 10th Street, Sacramento

Lambda Community Center 442-0185
Serves Gay/Lesbian/Bisexual/
Transgender communities

National Association for the 733-0430
Advancement of Colored People

Sacramento PD Hate Crime Hotline 454-2427

Victim & Witness Assistance Prog. 874-5701
Provides assistance recovering from financial, physical, and emotional impact of crime

Victims of Crime Resource Center 739-7061
McGeorge School of Law 800-842-8467

**ADDRESSING
HATE CRIME**
A RESOURCE GUIDE
FOR SACRAMENTO
COUNTY

provided by

THE HUMAN RIGHTS/FAIR
HOUSING COMMISSION OF
THE CITY AND COUNTY OF
SACRAMENTO

BARBARA L. LEHMAN
EXECUTIVE DIRECTOR

OCTOBER 1999 -

The **HUMAN RIGHTS/FAIR HOUSING**

COMMISSION recognizes that It takes tremendous courage to report a hate crime. The information in this brochure is designed to help victims of hate crime to seek the legal, medical, and emotional assistance necessary not only to follow an investigation and possible trial to their end, but also to survive the entire process with as few scars as possible.

Hate crimes are among the most under-reported crimes all across America for many reasons:

victims are afraid of further retaliation; some victims fear being outed as gay/lesbian/bisexual people; others fear discovery of their illegal Immigrant status. The law can effectively protect Its citizens only if victims report crimes and follow through with prosecution of offenders. The perpetrators of hate crimes violate the civil rights of their victims, among which is the right to live without threat of violence.

NOTE: Not all Incidents of hatred are crimes.

Verbal name calling, although offensive, is not a crime and must be accompanied by a viable threat of violence and the ability to carry out that threat. Note the difference between hate crimes and hate incidents,

SOME DEFINITIONS

WHAT IS A HATE CRIME?

As applies to Individuals, a hate crime is any criminal act or attempted criminal act directed against a person(s) based on the victim's actual or perceived RACE, NATIONALITY, COUNTRY OF ORIGIN, RELIGION, SEXUAL ORIENTATION, GENDER, PHYSICAL OR MENTAL DISABILITY, this could also apply to anyone who is identified as associating with or advocating on behalf of members of a protected group and who is attacked as a result of that association.) A hate crime includes any act that results in injury, however slight; a verbal threat of violence that apparently can be carried out; an act that results in property damage. (Penal Code 13519.6)

WHAT IS A HATE INCIDENT?

This is any non-criminal act, including words directed against another person, based on the person's actual or perceived membership in a protected class (outlined In Penal Code 422.75). They include, but are not limited to, epithets, distribution of hate material in a public place, posting of hate material that does not result in property damage, and the display of offensive material on one's own property.

WHAT TO DO IF YOU ARE A VICTIM OF HATE CRIME

If you believe you have been the victim of a hate crime or hate incident, you should:

1. Report the crime to the Sacramento Police Department (911 or 264-5151) or Sacramento County Sheriff (911 or 874-5111) immediately. These numbers are for emergencies or crimes in progress, Sacramento PD also has a Hate Crime Hotline that can be reached at 454-2427.
2. If possible, write down exactly what was said to you by the offender so you can tell the law enforcement agency that responds to the crime.
3. Save any evidence from the attack scene. This will later assist in prosecuting the person(s) responsible.
4. Contact the **HUMAN RIGHTS/ FAIR HOUSING COMMISSION** at 444-6903 to schedule an appointment with a counselor to learn more about your rights and options open to you.

Appendix F

California Department of Justice

Reporting Requirements

Hate Crime Reporting, Bulletin No. 94-25-OMET

Hate Crime Reporting, Bulletin No. 94-25-BCIA

Required Data Elements for Submission of Crime Reports

California
Department of Justice
DIVISION OF
LAW ENFORCEMENT

Gregory G. Cowart, Director



INFORMATION BULLETIN

Subject: Hate Crime Reporting	No. 94-25-OMET	For further information contact: Ann Kelly (916) 227-3518 CALNET 8 498-3518
	Date: 09/30/94	

TO: All California Law Enforcement Agencies

All law enforcement agencies are now required to submit copies of hate crime reports pursuant to California Penal Code Section 13023 to the Department of Justice, Law Enforcement Information Center (LEIC).

The attorney general is requesting local law enforcement agencies to report to the Department of Justice information as may be required relative to any criminal acts or attempted criminal acts which cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, physical or mental disability. Physical or mental disability is not a part of the FBI definition of hate crime, but it is included in the California Penal Code and shall be included in the definition of hate crime by all California law enforcement agencies.

We are asking that each agency submit reports of hate crimes that have occurred since July 1, 1994. The Department of Justice shall submit to the Legislature an analysis of the results of the information obtained from local law enforcement agencies pursuant to this section on or before July 1, 1995, and every July 1, thereafter.

Each report should be reviewed by at least one other peace officer (e.g., sergeant, lieutenant, captain) to confirm that the incident was in fact a hate crime. Identify the report(s) clearly as hate crimes and include them with the Uniform Crime Reporting (UCR) forms that you submit monthly. If you have no hate crimes to report, there must be a negative report. You may use the recommended format for negative reports on the following page.

Every agency should have two-tiered review procedure protocols in place. Examples of procedures are available from this office upon request.

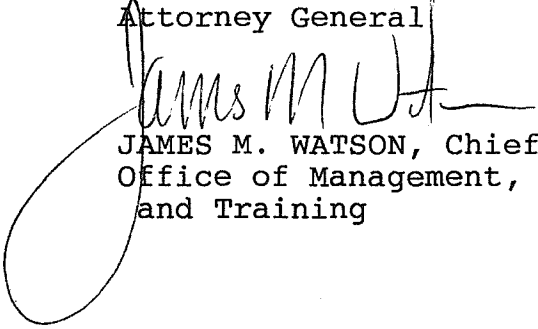
LEIC will be conducting statewide training seminars on reporting hate crime. These seminars will cover reporting and identification of hate crime(s). Once the dates and locations have been established, you will be notified.

In addition to creating a state of California hate crime reporting system, LEIC will also extract the appropriate data from all hate crime reports, and then forward the data to the FBI for inclusion in the FBI's yearly hate crime report.

If you have any questions regarding this bulletin, please contact the Law Enforcement Information Center.

Sincerely,

DANIEL E. LUNGREN
Attorney General



JAMES M. WATSON, Chief
Office of Management, Evaluation
and Training

Monthly Hate Crime Report

Agency Name: _____

NCIC Number: _____

Reporting Month: _____

There were no "Hate Crimes" reported to this department for this month.

Signature and Title

California Department of Justice
DIVISION OF CRIMINAL JUSTICE INFORMATION SERVICES
Nick L. Dedier, Director

INFORMATION BULLETIN

Subject:

Hate Crime Reporting

No.: 98-26-BCIA

Date: 11/20/98

For further information contact:

Ann Kelly (916) 227-3532

TO: ALL LAW ENFORCEMENT AGENCIES, DISTRICT ATTORNEYS AND ELECTED CITY ATTORNEYS

Currently, all law enforcement agencies in California are required to submit copies of hate crime reports pursuant to California Penal Code Section 13023 to the Department of Justice (DOJ), Criminal Justice Statistics Center. In addition, district attorneys and elected city attorneys are annually submitting summary data of hate motivated cases to this office.

Effective January 1, 1999, "gender" will be added to the list of motivations for hate crimes. Assembly Bill 1999 (Chapter 933, Statutes of 1998) amended California Penal Code Section 13023 to read as follows:

*Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, **gender**, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.*

AB 1999 also amended California Penal Code Section 422.76, to define gender as follows:

...the victim's actual sex or the defendant's perception of the victim's sex, and includes the defendant's perception of the victim's identity or appearance, whether or not the identity or appearance is different from that traditionally associated with the victim's sex at birth.

Domestic violence and sex related crimes should not be reported as anti-gender hate crimes unless the victim was specifically targeted because of his or her actual or perceived gender.

Information Bulletin

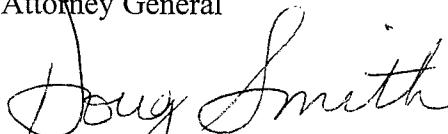
Page 2

In addition to the above mandated reporting change, AB 1999 also includes amendments that will add "gender" to the list of groups in which the victim's membership entitles the victim to protection under sections 186.21, 422.75, 11410 and 13519.6 of the California Penal Code. These statutes should be reviewed by all law enforcement agencies before updating their hate crime policies and procedures.

Sincerely,

DANIEL E. LUNGREN

Attorney General

A handwritten signature in cursive script that reads "Doug Smith". The signature is written in dark ink and is positioned above the printed name and title.

DOUG SMITH, Chief

Bureau of Criminal Information and Analysis

Required Data Elements for Submission of Hate Crime Reports to the Department of Justice

Information to be included

Each law enforcement agency should develop a clear and concise protocol for its officers to follow when completing reports on hate crimes and hate incidents. Due to the specialized nature of hate crimes/hate incidents, it is crucial that these report writing protocols be standardized for department use. This will also make it easier for each law enforcement agency to comply with Penal Code Section 13023, which requires all law enforcement agencies to report hate crime activity to the office of the Attorney General. The following is a list of the data elements that should be included in each crime report that is submitted to the Attorney General's office.

General Case Information

Jurisdiction (NCIC) Number

County/City code
(FBI required)

Crime Case Number

The case number given by the jurisdiction on the crime report.
(FBI required)

Date of Crime

The date of the crime
(MMDDYYYY)

Time of Crime

Military time; list as (00) if unknown

Victim Data Elements

Victim's(s') Name - Last, First, Middle

Person/Property or organization

Victim's(s') Date of Birth

(MMDDYYYY)

Victim's(s') sex

Male/Female/Transgender

Victim's(s') Race/Ethnicity

Alaskan Native

Asian

Cambodian	Hawai'ian	Mien
Chinese	Japanese	Samoan
Filipino/a	Mien	Vietnamese
Guamanian	Laotian	Other Asian
Hmong	Pacific Islander	

Black (non-Hispanic)

Latino/a

Middle-Eastern

Native/Indigenous American

White (non-Hispanic)

White - Slavic

**Victim's(s') Organization
Membership of Affiliation**

American NAZI
Peckerwoods
NAACP
Jewish Defense League
Mexican Mafia
Ku Klux Klan
White Supremacy
Anti-Defamation League
Black Guerrilla
Japanese-American League
Gay/Lesbian/Bisexual/
Transgender organization
Other gang
Other

Victim/Suspect Relationship

(Relationship of victim to suspect)
Family member
Neighbor
Acquaintance
Ex-wife
Girlfriend/Ex-girlfriend
Ex-husband
Boyfriend/Ex-boyfriend
Employer
Friend
Employee
Homosexual relationship
Gang member
Stranger
Unknown
Other - known to victim

Offensive

Cross burning
Bombing
Graffiti
Rock throwing
Explosion
Verbal slurs

Annoying telephone calls/Fax/
E-mail
Disturbing peace assembly meeting
Threatening letters/flyers
Hanging in effigy
Daubing of swastika
Other
Unknown

Charge

Penal Code Section, Health and
Safety Code, etc.

Victim Type (FBI required)

Individual (person)
Society/Public
Government
Business
Religious organization
Financial institution
Other
Unknown

Crime/Offenses

Murder
Forcible rape
Burglary
Larceny-Theft
Robbery
Aggravated assault
Arson
Simple assault
Intimidation
Other
Moto vehicle theft
Destruction/Damage/Vandalism

Weapon

(Use with person crimes only)
Firearm
Rifle
Shotgun

Arson/Fire
 Poison
 Knife or other stabbing instrument
 Blunt object (club, bludgeon, etc.)
 Personal weapons (hands, feet, teeth, etc.)
 Ropes or garrote, strangulation or hanging
 Other gun (pellet, BB, stun gun, etc.)
 Other (bottle, rocks, spitting, etc.)
 Unknown

Location of Crime (FBI required)

Air/Bus/Train/Terminal
 Bar/Night Club
 Bank/Savings and Loan
 Church/Synagogue/Temple
 Commercial/Office building
 Construction site
 Convenience store
 Department/Discount store
 Drug Store/Dr.’s Office/Hospital
 Field/Woods/Park
 Government/Public Building
 Grocery/Supermarket
 Highway/Road/Alley street
 Hotel/Motel, etc.
 Jail/Prison
 Lake/Waterway/Beach
 Liquor Store
 Parking Lot/Garage
 Rental Storage Facility
 Residence/Home/Driveway
 Restaurant
 School/College
 Service/Gas station
 Specialty Store/TV, fur, etc.
 Other/Unknown

Hate Motivation/Ethnicity or National Origin (FBI required)
 Anti-Hispanic
 Anti-Other

Hate Motivation/Sexual

(FBI required)
 Anti-Male Homosexual
 Anti-Female Homosexual
 Anti-Male Heterosexual
 Anti-Female Heterosexual
 Anti-Male Bisexual
 Anti-Female Bisexual

Hate Motivation/Racial

(FBI required)
 Anti-White
 Anti-Black
 Anti-Asian/Pacific Islander
 Anti-Native American/Alaskan
 Native
 Anti-Multiracial group

Hate Motivation/Religious

(FBI required)
 Anti-Jewish
 Anti-Catholic
 Anti-Protestant Anti-Islamic
 Anti-Other Religion
 Anti-Multireligious group
 Anti-Atheism/Agnosticism, etc.

Hate Motivation/Gender

(FBI required)
 Anti-Male
 Anti-Female
 Anti-Transgender (birth sex male)
 Anti-Transgender (birth sex female)
 Anti-Transgender (birth sex unknown)

Hate Motivation/Disability

(FBI required)
 Anti-Physical disability
 Anti-Mental disability
 Anti-HIV/AIDS/ARC

Suspect Data Elements

Suspect's(s') Name - Last, First, Middle

Person name

Black Guerrilla
Japanese-American League
Gay/Lesbian/Bisexual/
Transgender organization

Suspect's(s') Sex

Male
Female
Transgender

Other gang
Other

Suspect's(s') Race/Ethnicity

Alaskan Native

Asian

Cambodian	Hawai'ian	Mien
Chinese	Japanese	Samoan
Filipino/a	Mien	Vietnamese
Guamanian	Laotian	Other Asian
Hmong	Pacific Islander	

Black (non-Hispanic)

Latino/a

Middle-Eastern

Native/Indigenous American

White (non-Hispanic)

White - Slavic

Total Number of Suspects

(FBI required)

Indicate the total number of suspects involved in the crime

Suspect's(s') Date of Birth

(MMDDYYYY)

Suspect's(s') Organization

Membership of Affiliation

American NAZI

Peckerwoods

NAACP

Jewish Defense League

Mexican Mafia Ku Klux Klan

White Supremacy

Anti-Defamation League

Appendix G

Historical Legislation (AB 3407)

Historical Legislation

Issues Date of Hearing: April 7, 1992
 Consultant: Laura L. Hankins

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
 John Burton, Chair

AB 3407 (Klehs) - As Introduced

- Should the Commission on Peace Officer Standards and Training be required to develop guidelines and a course of instruction and training on hate crimes?
- Should every law enforcement agency be required to develop and distribute a brochure on hate crimes?

AB3407 Legislative Counsel's Digest

Klehs. Peace officers: training: hate crimes.

Existing law requires the Commission on Peace Officer Standards and Training to provide training to law enforcement officers, as specified, in handling, among other things, domestic violence complaints, missing persons and runaway cases, cases involving persons with developmental disabilities or mental illness, or both, cases involving sudden deaths of infants and training on the racial and cultural differences among the residents of the state and methods of gang and drug law enforcement.

This bill would, in addition, require the commission to develop, on or before December 31, 1993, guidelines and a course of instruction and training for specified peace officers that addresses hate crimes. The bill would define hate crimes as any act of intimidation, harassment, physical force, or the threat of physical force directed against any person, or family, or their property or advocate, motivated either in whole or in part by the hostility to the real or perceived ethnic background, national origin, religious belief, sex, age, disability, or sexual orientation, with the intention of causing fear and intimidation. The bill would require the course

and guidelines to include the indicators of hate crimes, the impact on the victim, the victim's family, and the community, and techniques and methods to handle incidents of hate crimes in a non-combative manner. The bill would require that the course of training leading to the basic certificate issued by the commission include this course of instruction not later than July 1, 1994.

This bill would require every law enforcement agency in this state to make available a brochure on hate crimes, as specified. By requiring local law enforcement agencies to make available this brochure, the bill would constitute state-mandated local program. An existing brochure would be provided to local law enforcement agencies upon request by the Department of Fair Employment and Housing.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

The people of the State of California do enact as follows:

Sec. 1

SECTION 1. Section 13519.6 is added to the Penal Code, to read:

<< CA PENAL § 13519.6 >>

13519.6.

- (a) The commission shall, on or before December 31, 1993, develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers, addressing hate crimes. "Hate crimes," for purposes of this section, means any act of intimidation, harassment, physical force, or the threat

of physical force directed against any person, or family, or their property or advocate, motivated either in whole or in part by the hostility to the real or perceived ethnic background, national origin, religious belief, sex, age, disability, or sexual orientation, with the intention of causing fear and intimidation.

- (b) The course shall make maximum use of audio and video communication and other simulation methods and shall include instruction in each of the following procedures and techniques:
 - Indicators of hate crimes
 - The impact of these crimes on the victim, the victim's family, and the community
 - Knowledge of the laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes
 - Law enforcement procedures, reporting, and documentation of hate crimes
 - Techniques and methods to handle incidents of hate crimes in a non-combative manner
- (c) The guidelines developed by the commission shall incorporate the procedures and techniques specified in subdivision (b).
- (d) The course of training leading to the basic certificate issued by the commission shall, not later than July 1, 1994, include the course of instruction described in subdivision (a).
- (e) As used in this section, "peace officer" means any person designated as a peace officer by Section 830.1 or 830.2. Sec.2

SEC. 2. Section 13873 is added to the Penal Code, to read:

<< CA PENAL § 13873 >>

13873.

- (a) Every law enforcement agency in this state shall make available a brochure on hate crimes to victims of these crimes and the public.
- (b) The Department of Fair Employment and Housing shall provide existing brochures, making revisions as needed, to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties.

Sec.3

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CA LEGIS 1239 (1992) END OF DOCUMENT

Copr. © West 1999 No Claim to Orig. U.S. Govt. Works

CA LEGIS 1239 (1992)

1992 Cal. Legis. Serv. Ch. 1239 (A.B. 3407) (WEST)

Comments Purpose

According to the author:

The rising incidence of hate crimes all over the state requires for the enactment of preventive rather than reactive state programs. While many law enforcement offices have initiated training programs for their officers, these are done independently and at the discretion of individual police departments. This bill seeks to strengthen information dissemination mechanism related to hate crimes, and enhance the capability of law enforcement agencies to handle hate crime related incidents.

Training Academy

This bill requires POST, on or before December 31, 1993, to develop guidelines and a course of instruction and training on hate crimes for law enforcement officers who are employed as peace officers or are enrolled in the training academy.

Hate Crimes

“Hate crimes” means any act of intimidation, harassment, physical

force, or the threat of physical force directed against any person, or family, or their property or advocate, motivated either in whole or in part by the hostility to the real or perceived ethnic background, national origin, religious belief, sex, age, disability, or sexual orientation, with the intention of causing fear and intimidation.

Instruction

The course required by this bill shall include instruction in each of the following procedure's and techniques:

- a) Indicators of hate crimes.
- b) Impact of these crimes on the victim, victim's family, and the community.
- c) Knowledge of the laws dealing with hate crimes and the legal rights and remedies available to hate crime victims.
- d) Law enforcement procedures, reporting, and documentation of hate crimes.
- e) Techniques and methods to handle incidents of hate crimes in a non-combative manner.

Hate Crimes Brochure

This bill requires every law enforcement agency in this state to develop and distribute a brochure on hate crime to victims of these crimes. The brochure shall be developed by each law enforcement agency in consultation with the Department of Fair Employment and Housing and public and private human rights organizations.

Source	Author
Support	California Correctional Peace Officers, Association
Opposition	None on file

